

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
SCRANTON DIVISION

-----X  
MR. MONTALBAN JOSE, et, al.  
PLAINTIFF:

Vs.

MR. PEDONE ANTHONY, et, al.

mr. powell  
mr. Brennan Mark  
mr. Verbyla Williams  
mr. Glossenger Jason  
MS. Burgerholff Patricia  
mr. Moddroff,  
mr. John doe( in blue uniform )  
mr. Johnm doe (in black uniform )  
mr. dobushak Walter  
mr. Kabonick, M.  
mr. Tuttle Jarret  
mr. John doe's ( R&D )  
-----X

CASE NO: 1:17cv212

FILED  
SCRANTON

FEB - 3 2017

PER   
DEPUTY CLERK

" ALL FBOP STAFF FROM USP-CANNAN IN THEIR INDIVIDUALLY AND  
OFFICIAL CAPACITIES "

" UNDER THE COLOR OF FEDERAL LAW"

"" JURISDICTION ' & ~~WARRANT~~ ""

THIS IS A CIVIL ACTION AUTHORIZED BY 42 U.S.C § 1983,1985,1986 TO REDRESS THE DEPRIVATION UNDER COLOR OF STATE OR FEDERAL LAW OF RIGHTS SECURED BY THE CONSTITUTION OF THE UNITED STATES OF AMERICA, .

BIVEN V. SIX UNKNOWN NAMED AGENTS OF THE FEDERAL BUREAU OF NARCOTICS", 403 u.s. 388,91 S.ct.(1999) 29 L. Ed. 2d 619 9(1991)", .

PLAINTIFF:

I MONTALBAN JOSE, IS AND WAS AT ALL TIMES MENTIONED HEREIN THIS COMPLAINT AN INMATE UNDER THE CUSTODY OF THE FEDERAL BUREAU OF PRISONS (FBOP) " HEREIN AFTER REFERENCED AS THE FBOP. AND AT PRISONER OF THE UNITED STATES OF AMERICA.

WHERE HIS COMPLAINT ARISES WHILE IN CUSTODY AT USP-CANNAN,WAYMART,PA.

DURING THE PERIODS ALLEGED HEREIN PLAINTIFF,RESIDING AT USP CANNAN,PA. AND IS CURRENTLY STILL HELD AT FCC-COLEMAN,FLORIDA. USP\_1 ,COLEMAN,FL.

PLAINTIFF,MONTALBAN JOSE, FILED A CIVIL COMPLAINT AGAINST DEFENDANTS CORRECTIONALS OFFICERS WITH DIFFERENTS TITTLES AND ALLEGING THAT THE C/O VIOLATED THE FIRST,FITH,EIGHT AND THE FOURTHEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION.

PLAINTIFF ALLGED THAT THE SUPERVISOR AND THE CORRECTIONAL OFFICERS ASSAULT AND BEATING HIM ,WHEN HE WAS ALREADY INCAPACITATED ALREADY IN HANDSCUFFED AND SCHUCKLEDD,LYING ON THE FLOOR GROUN.

**I. PLAINTIFF:**

State your full name, inmate number (if applicable), and full mailing address in the lines below.

Name of Plaintiff: MONTALBAN, JOSE  
 Inmate Number: #11497-179  
 Prison or Jail: Federal Correctional  
 Mailing address: Complex - USP (1)  
Coleman, P.O. Box  
1033, Coleman, FL 33521

**II. DEFENDANT(S):**

State the name of the Defendant in the first line, official position in the second line, place of employment in the third line, and mailing address. Do the same for every Defendant:

- (1) Defendant's name: PEDONE, ANTHONY  
 Official position: Lieutenant  
 Employed at: USP-CANNAN  
 Mailing address: WAYMART  
PENNSYLVANIA
- (2) Defendant's name: POWELL,  
 Official position: Lieutenant  
 Employed at: USP-CANNAN  
 Mailing address: - SAME -
- (3) Defendant's name: BRENNAN, MARK  
 Official position: Food Service Supervisor  
 Employed at: USP-CANNAN  
 Mailing address: - SAME -

**ATTACH ADDITIONAL PAGES HERE TO NAME ADDITIONAL DEFENDANTS**

DEFENDANT NAME: WILLIAM, VERBYLA  
OFFICIAL POSITION: CORRECTIONAL OFFICER  
EMPLOYED AT: USP-CANNAN  
MAILING ADDRESS: WAYMART,  
PENNSYLVANIA

DEFENDANT'S NAME: VRABEL, COREY  
OFFICIAL POSITION: CORRECTIONAL OFFICER  
EMPLOYED AT: USP-CANNAN  
MAILING ADDRESS: — SAME —

DEFENDANT'S NAME: GLOSSENGER, JASON  
OFFICIAL POSITION: CORRECTIONAL OFFICER  
EMPLOYED AT: USP-CANNAN  
MAILING ADDRESS: — SAME —

DEFENDANT'S NAME: MODROFF,  
OFFICIAL POSITION: CORRECTIONAL OFFICER  
EMPLOYED AT: USP-CANNAN  
MAILING ADDRESS: — SAME —

DEFENDANT'S NAME: BURGERHOFF, PATRICIA  
OFFICIAL POSITION: NURSE (R.N.)  
EMPLOYED AT: USP- CANNAN  
MAILING ADDRESS: WAYMART,  
PENNSYLVANIA

DEFENDANT'S NAME: JOHN DOE (BLUE UNIFORM)  
OFFICIAL POSITION: CORRECTIONAL OFFICER  
EMPLOYED AT: USP- CANNAN  
MAILING ADDRESS: — SAME —

DEFENDANT'S NAME: JOHN DOE (BLACK UNIFORM)  
OFFICIAL POSITION: CORRECTIONAL OFFICER  
EMPLOYED AT: USP- CANNAN  
MAILING ADDRESS: — SAME —

DEFENDANT'S NAME: DOBUSHAK, WALTER  
OFFICIAL POSITION: DOCTOR (MDO)  
EMPLOYED AT: USP- CANNAN  
MAILING ADDRESS: — SAME —

DEFENDANT'S NAME: KABONICK, M.

OFFICIAL POSITION: EMT-

EMPLOYED AT: USP-CANNAN

MAILING ADDRESS: WAYMART,  
PENNSYLVANIA

DEFENDANT'S NAME: TUTTLE, JARRET

OFFICIAL POSITION: EMT

EMPLOYED AT: USP-CANNAN

MAILING ADDRESS: — SAME —

DEFENDANTS NAME: JOHN DOE'S

OFFICIAL POSITION: "B & D"

EMPLOYED AT: USP-CANNAN

MAILING ADDRESS: — SAME —

(2-c)

**NOTE: THE COURT WILL NOT REVIEW THE COMPLAINT UNLESS THE FOLLOWING QUESTIONS HAVE BEEN ANSWERED IN FULL.**

**III. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

Exhaustion of administrative remedies is required prior to pursuing a civil rights action regarding conditions or events in any prison, jail or detention center. 42 U.S.C. § 1997e(a). Plaintiff is warned that any claims for which the administrative grievance process was not completed prior to filing this lawsuit may be subject to dismissal.

**IV. PREVIOUS LAWSUITS**

**NOTE: FAILURE TO DISCLOSE ALL PRIOR CIVIL CASES MAY RESULT IN THE DISMISSAL OF THIS CASE.**

- A. Have you initiated other actions in **state court** dealing with the same or similar facts/issues involved in this action?

Yes( )

No(☒)

1. Type of action (civil rights, habeas corpus, etc.): \_\_\_\_\_
2. Parties to previous action:
  - a. Plaintiff(s): \_\_\_\_\_
  - b. Defendant(s): \_\_\_\_\_
3. County and judicial circuit: \_\_\_\_\_
4. Case docket #: \_\_\_\_\_
5. Approximate filing date: \_\_\_\_\_
6. If not still pending, date of dismissal: \_\_\_\_\_
7. Basis of dismissal: \_\_\_\_\_
8. Facts and claims of case: \_\_\_\_\_  
\_\_\_\_\_

**(Attach additional pages as necessary to list state court cases.)**

B. Have you initiated other actions in **federal court** dealing with the same or similar facts/issues involved in this action?

Yes (X)

No ( )

1. Type of action (civil rights, habeas corpus, etc.): Civil Rights
2. Parties to previous action:
  - a. Plaintiff(s): Montalban JOSE #11497-179
  - b. Defendant(s): Mr. CHARLES E. SAMUEL (etal.)
3. District and judicial division: For the Middle District of Florida
4. Case docket #: Attached page 5. Approximate filing date: 6/20/2016
6. If not still pending, date of dismissal: \_\_\_\_\_
7. Basis of dismissal: \_\_\_\_\_
8. Facts and claims of case: Plaintiff alleged that the Defendants conspired and retaliated against him, Attached page!!

(Attach additional pages as necessary to list other federal court cases.)

C. Have you initiated other actions (*besides those listed above in Questions (A) and (B)*) in **either state or federal court** that relate to the fact or manner of your incarceration (including habeas corpus petitions) or the conditions of your confinement (including civil rights complaints about any aspect of prison life, whether it be general circumstances or a particular episode, and whether it involved excessive force or some other wrong)?

Yes ( )

No (X)

If YES, describe each action in the space provided below. If more than one, describe all additional cases on a separate piece of paper, using the same format as below.

1. Type of action (civil rights, habeas corpus, etc.): \_\_\_\_\_
2. Parties to previous action:
  - a. Plaintiff(s): \_\_\_\_\_
  - b. Defendant(s): \_\_\_\_\_



FROM THE PAGE # 4;

3) OCALA DIVISION

4) CASE DOCKET NO: 5:16-cv-405-oc-10pr1

8) ACTED WITH DELIBERATED INDIFFERENCE TO HIS MEDICAL  
NEED'S DEPRIVED HIM OF HIS LIBERTY AND PROPERTY,  
AND VIOLATED HIS FIRST, FIFTH, SIXTH, EIGHTH, AND THE  
FOURTEENTH AMENDMENT OF THE U. S. CONSTITUTION.

3. District and judicial division: \_\_\_\_\_
4. Case docket #: \_\_\_\_\_ 5. Approximate filing date: \_\_\_\_\_
6. If not still pending, date of dismissal: \_\_\_\_\_
7. Reason for dismissal: \_\_\_\_\_
8. Facts and claims of case: \_\_\_\_\_  
\_\_\_\_\_

**(Attach additional pages as necessary to list cases.)**

- D. Have you ever had, either while you were incarcerated or while you were not incarcerated, any actions in **federal court** dismissed as frivolous, malicious, failing to state a claim, or prior to service? If so, identify each and every case so dismissed:

Yes( )

No(☒)

1. Type of action (civil rights, habeas corpus, etc.): \_\_\_\_\_
2. Parties to previous action:
  - a. Plaintiff(s): \_\_\_\_\_
  - b. Defendant(s): \_\_\_\_\_
3. District and judicial division: \_\_\_\_\_
4. Name of judge: \_\_\_\_\_ Case Docket # \_\_\_\_\_
5. Approximate filing date: \_\_\_\_\_ Dismissal date: \_\_\_\_\_
6. Reason for dismissal: \_\_\_\_\_

**(Attach additional pages as necessary to list cases.)**

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## STATEMENTS OF FACTS:

I, JOSE MONTALBAN, I was charged with 18 U.S.C. § 111(A) & (B) Forcibly Assaulting and resisting a Correctional Officer and inflicting Bodily Harm with a Dangerous Weapon, Count (1)

And 18 U.S.C. § 1791(A)(2) Possession of a Prohibited object, Count (2)

Since the date of that incident I've been threatened to stop all actions against (FBOP) staff in the form of Administrative Remedies, Request for my's legal Materials that have been lost or Damage or stolen by either the USP-CANNAN, or USP-① Coleman

STATEMENTS OF FACTS:

On the day in fact, December 28, 2012, Plaintiff approached for the final time in front of his office door Food Supervisor Mr. Andrew Wisniewski, where he proceeded to ask him if his pay was going to be corrected. At that point Mr. Wisniewski became offensive and stated while tossing a pack of Common Fare Sardines at me where it slid in front of me on the floor like he expected me to pick it up like a common beggar, "Heres your fucking pay, and bonus too now get out from in front of my face..." while my detail supervisor Mr. Brennan was laughing at me. All this transpired in front of other inmate Food Service workers and several kitchen cameras.

Plaintiff asserts after this incident that both Food Service supervisors Brennan & Wisniewski had continued to taunt him and make fun of him all the while he was performing his duties and in the presence of other inmates too. These "taunts and jokes"

Now what is not known and was never presented to the Third Circuit Courts is what is known inside the FBOP inmate system as "politics". These "politics" is what governs the inmates within themselves and creates a respect level that maintains peace as well as it can create violence amongst inmates on inmates or inmates on staff. Part of the "politics" is what is called having your "man-card" pulled. This is when another inmate/staff member says or does something intentionally to either disrespect or insult you and is to be interpreted as an attack on your manhood. Now there are only a couple of ways to handle this, unfortunately each way ends in violence, either a) you fight then and there and its over, b) you walk away, which seems like the right thing to do,

STATEMENTS OF FACTS:

Here is the account of all that transpired on the evening of December 28, 2012: (19:37 pm)

Plaintiff had requested Food Supervisor Mark Brennan if he could retrieve his milk he had saved for himself earlier that evening. Mr. Brennan allowed Mr. Montalban to retrieve his milk. The milk was located in the Food Supervisors office and when Mr. Montalban came to the doorway Mr. Wisniewski was already inside the office at his desk and when he noticed Mr. Montalban standing there about to enter he stated, "What do you want? Get the fuck out of my face...". At this point Plaintiff's tolerance to all the verbal abuse had taken its toll and Plaintiff reacted. He came at Mr. Wisniewski while he was still seated, yet facing him, and Plaintiff proceeded to physically assault Mr. Wisniewski bare-knuckled, striking blows at him to his face and upper body.

At some point shortly thereafter, Mr. Brennan came into the office and had pushed the "body-alarm" on his walkie-talkie alerting the compound staff there is an emergency and where the emergency is located. Mr. Brennan had picked up a glass coffee urn that was in the office and attempted to smash it over Mr. Montalban's head. Plaintiff ducked just as the urn was about to strike him and the urn smashed against the wall spraying glass in all directions.

Mr. Brennan's attempt to subdue Plaintiff with the urn had failed and what it did do was create wounds to Mr. Wisniewski's face. These wounds caused Mr. Wisniewski to scream aloud and in turn Mr. Brennan grabbed Plaintiff by the arms of his institution coat pulling him away from Mr. Wisniewski.

STATEMENTS OF FACTS:

I was in the altercation with the two supervisor, and some officer's arrived into the office and Subdue plaintiff, and put him in handcuffed and schuckledd',

PLAINTIFF, was on the floor ground lying and the supervisor Brennan, started to punching plaintiff, on his face, head as well throw fists, kicking plaintiff on the head and body, and started to stabbed plaintiff, in the left-side of his stomage three times with the protector key's. every time he stabbed ,he twisted the point of the protektor key's into the stomage of plaintiff, inflicted three wounds points', and the officers inside the office just let the 6 supervisor Brennan, assaulted plaintiff, the liuetenant PEDONE as well Liuetenant POWELL, and the officers ( WILLIAMS VERBYLA, MODROFF, VRABEL COREY, GLOSSENGER) AS WELL PROCEED TO ASSAULTED PLAINTIFF ALREADY INCAPACITATED.

They's started to Kicking, punching on the head as well the body when plaintiff is on the floor ground without provocation as a result of this excessive use of force unnecessary plaintiff , Suffered, Bruises, Abrasions around the body, as well the three stabbed wounds in his left side of his stomage, a lot blood from his mouth, ( PHOTOS SHOWINF IN COURT THE MAGNITUDE OF THE FORCE ALOT BLOOD ON THE FLOOR ,DESK, REFRIGERATOR )

THIS WAS THE FIRST ASSAULT BY THE GUARDS AND TWO LIUETENANTS PEDONE ANTHONY AND LT. POWELL ,IN THE INSIDE OF THE FOOD SERVICE OFFICE, THE LIUETENANT PEDONE, ORDERED THE CORRECTIONALS OFFICERS TO SCORT PLAINTIFF TO THE ENFERMARY ROOM FOR CHECK THE INJURIES OF PLAINTIFF,

STATEMENTS OF FACTS:

as Plaintiff looked up all he saw was a fist flying into his face and another beating insued by officers unknown to the Plaintiff. As this beating was taking place he was being held by two officers the entire time under each of his arms and again all while he was in full restraints.

Plaintiff felt himself being moved at some point during this beating outside of the main kitchen into the dining room area. As he was being dragged again down the inmate food service entrance line other officers came at him and one had placed him in a choke hold ramming his head into the walls.

As they were heading towards the exit door said officers holding each arm had began to twist his arms forward forcing Plaintiff to lean forward with his head heading towards the floor till almost parallel with it. The officer who still has him in a choke hold uses Plaintiff head to ram the steel security door open as they proceed to leave the Food Service area.

As Plaintiff is being punched, jabbed and kicked down the main corridor heading towards Medical there are (2) Solid steel barred security gate, at each gate door again and again the officers use Plaintiff's head as a battering ram to open these barred gates. (19:45) Upon arrival to Health Services Plaintiff was first seen by R.N. Patricia Burgerhoff, but before R.N. Burgerhoff see Mr. Montalban there are (2) additional solid steel slab doors that were opened witht he aid of ramming his head against these doors. Upon arrival R.N. Burgerhoff has the two officers holding Plaintiff's arms lift him up onto the exam table where she began her examinaton and had wiped his face clean then took photographs of Plaintiff.

After she had taken the photographs (note: actual photos were taken by a 3rd unknown Lieutenant) she had ordered for Plaintiff to be stripped of his garments for further assessment and examination. She takes account of the multiple wounds and bruises he had sustained by staff. Even though she takes notice of these wounds she never documents them or requests to have photographs taken as well. She makes the comment, "I see nothing wrong with you..." then she states she's going to examine the other **staff** involved (Brennan and Wisniewski, Brennan who sustained a dislocated pinkie finger and Wisniewski's cuts from the coffee urn) as soon as she leaves the exam room (7) officers (1 wearing his blue uniform and 6 wearing black clad SERT uniforms) entered the room and again Mr. Montalban is assaulted for several minutes.

Officer s Modroff and Vrabel while securing Plaintiff's arms allowed Officer Verbyla to place him in a choke hold and after he was in place asked the other two officers to release Plaintiff and upon doing so Verbyla lifted Plaintiff up over the exam table and slammed him head first to the ground. As soon as Plaintiff hits the ground the entire room of officers began kicking, punching and jabbing him. At a point the officer who was wearing his blue uniform who entered with the (7) officers had grabbed Plaintiff's head and proceeded to slam it on the ground. Shortly thereafter, R.N. Burgerhoff returns and sees this occuring and screams, "Guys! Guys! what are you doing?" to their reply while laughing, " Oh, he fell..." At this point R.N. Burgerhoff was mortified once the officers lifted Plaintiff back onto the exam table and she the extent of the new damage he sustained. Plaintiff recalls as he was being lifted that she had wrote someting on some papers and as soon as she saw the new damage to him she tore up



the papers she had in her hand and threw them in the waste-bin.

At this point R.N. Burgerhoff was asked by Officer Verbyla asked what do you want to do with him. She stated to get him out of here and Officer Verbyla used his walkie-talkie to request that the main corridor be cleared so Plaintiff can be transported to the Special Housing Unit (SHU). Again using his head as a battering ram Plaintiff sustains a concussion and is temporarily knocked out, there are approximately (2) steel slab doors, (2) steel sliders prior to entering the SHU that he had been rammed into. Once inside the SHU Plaintiff is taken to an area out of cameras range and beaten again

1

came again to re-examine him. Plaintiff was now wearing SHU oranges and again she cleans Plaintiff's face and requests more photos to be taken (note: If upon review of this video you can clearly see the blood on the floor and how it trails into the exam room, yet the photos taken reveal no blood at all).

Plaintiff afterwards is placed in a cell on the SHU range with another cell-mate. At this point Plaintiff has received no medications or treatment of any kind for his numerous injuries. It became extremely inflamed, swollen and unbearable to the point Plaintiff had temporary loss of vision and partial hearing from the beating he had sustained. He was placed in food strike by morning, afternoon and dinner meals for approximately 10 days. If it wasn't for the assistance of his cell-mate in providing him with  $\frac{1}{2}$  of his food trays he had received Plaintiff would have starved and gone through serious medical problems besides malnutrition  
dehydration,

Nutrients necessary for his body to heal and repair itself After plaintiff cell mate had requested that his cellie needed food or medical attention they would stated,after they peered inside the cell window ' He is not dead yet' 'Why dont he just die''.

THE officer in " blue uniform" INFLICTED SEVERAL PAIN TO PLAINTIFF several injuries on his head ,pounding his head to the floor cement,broken his thumb in the right hand backwards, punching his right eye several times when the plaintiff,was incapacitated on the lying on the floor cement inside teh enfermary room 9(19;45 ) PLAINTIFF was already incapacitated ,handscuffed and schuckledd'

I CAN I. D." THIS OFFICER IN BLUE UNIFORM, IN THE DATE OF JULY/? / 2014, THIS SAME OFFICER ARRIVED IN TO MY CEL WINDOW AND PEERED " HE STATED TO PLAINTIFF,YOU REMEMBER ME,PEAZE OF SHIIITT" I WAS THE PERSON TO BROKE YOUR THUMB BACKWARDS AND YOU FUCK HEAD TO THE CEMENT FLOOR,REMEMBER NOW,"

THIS WAS INSIDE THE SPECIAL HOUSE UNIT (SHU) WHEN I WAS BACK FROM THE TRIAL COURT IN SCRANTON ,PA. " AND LATER SCORT BACK BY TWO U.S. MARSHALL"S. TO THE USP\_CANNAN IN THE DATE: JULY/?/2014

ESTATEMENTS OF FACTS:

MEDICAL PROVIDERS

(R.N. BURGERHOLFF PATRICIA ): NURSE

(EMT- KABONICK M. ) : EMT

(MR: DOBUSHAK WALTER ): MDO

" DENIED MEDICAL ATTENTION AND FALSIFYING MEDICAL RECORDS TO  
HELP THE " COVER UP FOR THE ASSAULTIVE USE OF EXCESSIVE FORCE  
UNNECESSARY ALREADY INCAPACITATED INMATE INFLICTED SERIOUS ,  
INJURIES TO PLAINTIFF:.

DEFENDANT: MR: DOBUSHAK WALTER (MDO)

AFTER TWO WEEKS IN SEVERAL PAIN PLAINTIFF WAS NOTICE OF  
THE DOCTOR DOBUSHAK, WANTED SEE IT IN HIS OFFICE IN HOSPITAL IN  
THE POPULATION, TWO OFFICERS SCORT PLAINTIFF TO SEE IT THE EXTENTION  
OF THE INJURIES, HE ASK TO PLAINTIFF IF HIS WAS IN PAIN, PLAINTIFF  
ANSWER BACK TO DOCTOR, "YES DOCTOR I AM IN SEVERAL PAIN FOR THE ALL  
THE BODY, MY BROKEN THUMB IN THE RIGHT HAND BACKWARDS, THE CONTUSSION  
ON THE FRONT HEAD, BOTHS KNEE'S SWOLLEN, I CANT PUT PRESSURE IN, AND  
THE THREE STABBING WOUNDS ON MY LEFT SIDE OF MY STOMAGE,"  
: "HE STATED :GOOD , YOU CAN GO BACK TO THE (SHU) NOW, HE ORDER THE  
TWO OFFICERS TO SCORT ME BACK TO THE (SHU)" HE SAY "INMATE DONT DESER  
VED NOTHING ."

" ALL DEFENDANTS ACTED UNDER COLOR OF FEDERAL LAW"

"INDIVIDUALLY AND OFFICIAL CAPACITY."

(6-h)

DEFENDANT:

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(BURGERHOLFF, PATRICIA (R.N.))

THIS IS THE NURSE WHO TREATED PLAINTIFF INJURIES INSIDE THE ENFER\_ MARY ROOM, AND FALSIFIED MEDICAL RECORDS TO HELP THE "COVER-UP" FOR THE ASSAULT BY THE OFFICERS INSIDE THE EMFERMARY ROOM AND TO PRODUCE SEVERAL INJURIES TO PLAINTIFF, THE NURSE SEE IT CLEARLY THE INJURIES ON PLAINTIFF FRONT HEAD, THE BODY BRUISES, LEFT SIDE STOMACH "THREE STABBED WOUNDS", SEVERAL BRUISES ON THE BOTH KNEES, SWOLLEN BOTH EYES, SHOUTDOWN BY THE BLOWS BLOWS OF THE OFFICERS, LACERATIONS, SCALP ON THE HEAD, BROKEN BONE ON THUMB IN RIGHT HAND, BACKWARDS, NOTWITHSTANDING THE FACT THAT PLAINTIFF COULD HAVE DIED FROM SUCH INJURIES OR COULD SUSTAIN A PERMANENT IMPAIRMENT OR DISABILITY,.

PLAINTIFF, ALLEGED DEPRIVATION OF HIS CIVIL RIGHTS BASED ON THE "USE OF EXCESSIVE FORCE UNNECESSARY" ALREADY INCAPACITATED AND THE "DELIVERED INDIFFERENCE OF SERIOUS MEDICAL NEEDS"

DID IMMEDIATELY AND PROMPTLY PUT A MEDICAL "COVER UP" AND CONSPIRACY IN MOTION WITH THE LIEUTENANT PEDONE ANTHONY, THEY MADE AT A VIDEO FOOTAGE "TWO HOURS LATER" IN THE (SHU) IN UNIFORM ORANGE. WITH THE FINALITY TO THE VIDEO LOOK LIKE AFTER THE INCIDENT IN THE FOOD SERVICE OFFICE ALTERCATION, "NOT BLOOD OVER PLAINTIFF IN THE FACE OR BODY, THE NURSE FAKED THE TREATMENT, THEY DRAGGED ME OUT THE CELL FOR THE SUPPOSED GIVE ME MEDICAL CARE AFTER THE INCIDENT, BY THE NURSE R.N. BURGERHOLFF,

DEFENDANTS:

JOHN DOE"S ( R & D ) at USP-CANNAN

ON THE DATE OF JULY/?/2014, ' I WAS PLACED BACK IN USP-CANNAN WAYMART PA. AFTER/BEFORE WAS IN THE LACKAWANA COUNTY JAIL, IN SCRANTO, PA. FOR AT COURT TRIAL () (02/12/14 ) AND LATER TRANSPORTED BACK TO USP-CANNAN, BY TWO U.S. MARSHALL"S , AND I COME WITH #7 MANILA ENVELOPES (INSIDE COME DOCUMENTS, EVIDENCE, AND TRANSCRIPT OF THE COURT,) SOME LETTER BY ATTORNEY PRIVELIGES, MR, GINO BARTOLAI LATER PLAINTIFF WAS PLACED IN THE(SHU) TO WAITING THE TRANSFER TO ANOTHER PRISON, .WITH NO RECEIPT OF THE MY PROPERTY, NOTHING

IS BEEN PLAINTIFF INTENTION TO HAVE HIS CRIMINAL CASE , "REHEARD" AND AT NEW TRIAL SET, YET ALL OF HIS LEGAL PAPERWORK AND MATERIALS HAVE EITHER BEEN "LOST/MISPLACED/damaged".

PLAINTIFF, ARRIVED TO USP-COLEMAN(1) WITH ZERO/PROPERTY OR RECEIPT ALL ATTEMPT TO HAVE HIS LEGAL PAPERWORK AND MATERIALS BE LOST BY THE PERSONELL OF "R&d" THEY FAILED TO SECURE AND CATALOGUE AND PASS TO PLAINTIFF AT A RECEIPT, THE COUNSELOR FOR THE B-UNIT AT USP-1 COLEMAN", HE ATTEMPTED SEVERAL OCASSIONS TO RECOLLECT MY PROPERTY BUT THE "R&D" IN USP\_CANNAN STATED MR. MONTALBAN, HE NO LEFT NOTHING HERE.

I SEND AT LETTER TO MY FEDERAL COURT IN SCRANTON, PA. FOR THE HELP TO OBTAINED MYS LEGAL DOCUMENTS AND PAPERWORK FOR THE APPLICATION OF THE "REHEARD" MY CASE AND THE &2255 form.

SO, THE OFFICERS IN THE "R&D" IN CA USP\_CANNAN, VIOLATED RIGHTS TO PLAINTIFF THE FITHAND THE FOURTEENTH AMENDMENTS OF THE UNITED STATES OF AMERICA, . AND THE DENIED THE ACCESS TO THE COURTS"

VII:

LEGAL CLAIMS:

THE INTENTIONALLY BEATING TO PLAINTIFF ENDURED THE OVERT ACTS OF STAFF INFLICTED TO PLAINTIFF, TEH BEATING DELIBERATE INDIFFERENCE TO MEDICAL NEDD VIOLATE PLAINTIFF, MONTALBAN JOSE, " RIGHTS AND CONSTITUTE CRUEL AND UNUSUAL PUNISHMENT , VIOLATION A "DUE PROCESS"

THE PLAINTIFF, HAS NO PLAIN ADECUATE OR COMPLETE REMEDYS AT LAW TO RERDRESS THE WRONGS DESCRIBBE HEREINS.

PLAINTIFF, HAS BEEN AND WILL CONTINUE TO BE IRREPARABLE INJURED BY THE CONDUCT OF THE DEFENDANTS UNLESS THIS COURT GRANTS THE DECLARATORY IN FAVOR OF PLAINTIFF WICH SEEK.

PL\$AINTIFF HOPES OF HIS PHYSICAL AND MENTAL ANGUISH THEY CONSPIRED LIES AND TESTYMONY TO FURTHER PUNISH PLAINTIFF AS WELL AS T THE DELIBERATED INDIFFERENCE HE HAS RECEIVED RECKLESS MEDICAL ATTENTI TION BY THE USP-CANNAN STAFF HAVE VIOLATED PLAINTIFF RIGHTS AND CONS TITUTE A VIOLATION OF THE FIRST, FFITH, SIXTH, EIGHT AND FOURTEENTH OF AMENDMNETS OF TEH UNITED STATES CONSTITUTION:

RELIEF REQUESTED:

PLAINTIFF, RESPECTFULLY PRAYS THAT THIS HONORABLE COURT ENTER JUDGMENT GRANTYNG PLAINTIFF, :

- 1) A DECLARATION THAT THE ACTS OF OMISSIONS DESCRIBED HEREIN VIOLATE PLAINTIFF, RIGHTS UNDER THE CONSTITUTION AND LAWS M OF THE UNITED STATES

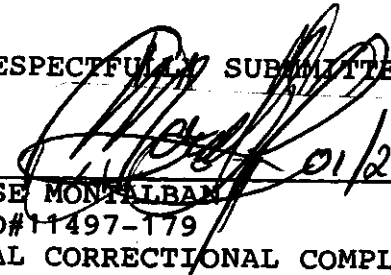
RELIEF REQUESTED:

- 1) COMPENSATORY DAMAGES IN THE AMOUNT OF \$ 6,514,000.00 AGAINST DEFENDANTS, JOINTLY AND SEVERALLY.
- 2) PUNITIVE DAMAGES IN THE AMOUNT OF \$ 250,000.00 AGAINST EACH DEFENDANTS, JOINTLY AND SEVERALLY.
- 3) NOMINAL DAMAGES IN THE AMOUNTS OF \$ 1,000.00 AS SEEN FIT BY THIS HONORABLE COURT.
- 4) A JURY TRIAL ON ALL ISSUES TRIABLE BY A JURY.
- 5) PLAINTIFFS' LEGAL COSTS IN THIS TRIAL SUIT.
- 6) ANY ADDITIONAL RELIEF THIS HONORABLE COURT DEEMS JUST PROPER AND EQUITABLE.

DATE:

JANUARY 27 / 2017

RESPECTFULLY SUBMITTED BY:

  
JOSE MONTALBAN  
REG: NO# 11497-179  
FEDERAL CORRECTIONAL COMPLEX  
USP-1 COLEMAN  
P.O. BOX 1033/h-unit  
COLEMAN, FL. 33521-1033

VERIFICATION

I, JOSE MONTALBAN, HAVE READ THE FOREGOING CIVIL ACTION COMPLAINT AND HEREBY VERIFY THAT THE MATTERS ALLEGED THEREIN ARE TRUE, EXCEPT AS TO THOSE MATTERS ALLEGED ON INFORMATION AND BELIEF, AND AS TO THOSE, I BELIEVED THEM TO BE TRUE.

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED AT COLEMAN, FLORIDA ON JANUARY 27 / 2017

  
-----  
JOSE MONTALBAN, PLAINTIFF PRO-SE

MIME-Version:1.0

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--No Notice Sent:

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Subject:Activity in Case 5:16-cv-00405-WTH-PRL Montalban v. Samuels et al Order on motion to supplement

Content-Type: text/plain

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U.S. District Court  
Middle District of Florida

Notice of Electronic Filing

The following transaction was entered on 12/20/2016 3:27 PM EST and filed on 12/20/2016

Case Name: Montalban v. Samuels et al

Case Number: 5:16-cv-00405-WTH-PRL

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Docket Text:

ORDER denying [15] Motion to supplement; denying [17] Motion to Serve Complaint; denying as moot [18] Motion to appoint counsel ; denying [19] Motion to supplement; denying [20] Motion to supplement; denying [22] Motion ; denying [23] Motion to Compel ; denying [26] Motion for Extension of Time to File; denying [27] Motion to supplement; denying [28] Motion to supplement; denying [29] Motion to supplement; denying [30] Motion to supplement; denying [31] Motion to supplement; Plaintiff is directed to file a Third Amended Complaint within 21 days of the date of this Order; Plaintiff is WARNED that if he files a Third Amended Complaint that suffers from the same defects as his previous complaints, such pleading will be stricken and the Court will dismiss this case without further notice.. Signed by Magistrate Judge Philip R. Lammens on 12/20/2016. (JEB)



5:16-cv-00405-WTH-PRL Notice has been electronically mailed to:

5:16-cv-00405-WTH-PRL Notice has been delivered by other means to:

Jose Montalban

11497-179

COLEMAN USP I

Federal Correctional Institution

Inmate Mail/Parcels

P.O. BOX 1033

Coleman, FL 33521

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: n/a

Electronic document Stamp:

[STAMP dcecfStamp\_ID=1069447731 [Date=12/20/2016] [FileNumber=15529051-0]

[a765cab01daae8baa79249827167ddb0c7c6adf0ae8682401df5b4df5d3e5cf52be3a54ba04463a1

0b39b5a9f522284219393f04612aa0208e574f7ffedbf755]]

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION**

**JOSE MONTALBAN,**

**Plaintiff,**

**v.**

**Case No: 5:16-cv-405-Oc-10PRL**

**CHARLES SAMUEL, et. al.,**

**Defendants.**

---

**ORDER**

Plaintiff, a federal inmate proceeding *pro se*, initiated this case by filing a Civil Rights Complaint. (Doc. 1). Plaintiff alleged that the defendants conspired and retaliated against him; acted with deliberate indifference to his medical needs; deprived him of his liberty and property; and violated his First, Sixth, Fifth and Fourth Amendment rights. Plaintiff named more than thirty (30) defendants located in two (2) federal prisons.

By Order dated July 1, 2016, the Court directed Plaintiff to file an Amended Complaint to include only claims pertaining to the same transaction or occurrence; containing sufficient allegations to show that the individual defendant personally participated in the alleged constitutional violation and complied with Rule 8 of the Federal Rules of Civil Procedure.

Plaintiff submitted the Amended Complaint and with leave of Court, filed a Second Amended Complaint a few days later. A review of the pleading reflects that it suffers from the same deficiencies as the original complaint. Again, Plaintiff names over thirty (30) defendants at (2) two different federal prisons, one of which is not within this Division and District. It appears that the majority of the defendants are located at USP Canaan and his claims relate to an alleged attack that took place while he was housed at that facility. On the other hand, Plaintiff's

claims against the defendants at FCC Coleman seem to be based on their alleged deprivation of his property. The alleged conduct of the USP Canaan defendants appears to be wholly independent to that of the FCC Coleman defendants.

Pursuant to Federal Rule of Civil Procedure 20(a), a plaintiff may not join unrelated claims and various defendants unless the claims arise "out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all defendants will arise in the action." As recognized by the Eleventh Circuit, "a claim arises out of the same transaction or occurrence if there is a logical relationship between the claims." Construct Aggregates, Ltd. v. Forest Commodities Corp., 147 F. 3d 1334, 1337 (11th Cir. 1998). Moreover, as the Seventh Circuit stated in George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007), "[u]nrelated claims against different defendants belong in different suits, not only to prevent the sort of morass that a [multi]-claim, [multi]-defendant suit produced but also to ensure that prisoners pay the required filing fees.... A buckshot complaint that would be rejected if filed by a free person-say, a suit complaining that A defrauded [him], B defamed him, C punched him, D failed to pay a debt, and E infringed his copyright, all in different transactions-should be rejected if filed by a prisoner." See also Smith v. Conner, Case No. 8:12-cv-52-T-30AEP, 2012 WL 1676643 \*1 (M.D. Fla. May 14, 2012) (citing George, 507 F.3d at 607, in a case where a prisoner plaintiff's complaint raised unrelated claims ranging from unreasonable search and seizure to an interference with access to court). Claims that are unrelated must be raised in separate actions.

Here, it is clear that allowing this action to go forward against thirty (30) plus defendants—many of which are sued under unrelated theories and based on unrelated events—would prejudice the defendants, and would be fundamentally unfair. See Don King Prods., Inc., 561 F. Supp. 2d at 192 (where claims against multiple defendants arose from distinct transactions and would give

rise to unique defenses, the plaintiff's "convenience to bring all claims against these defendants in one action without paying fees for each defendant, is outweighed by the prejudice and delay it would put on the Court's shoulders, as well as each defendant's defense counsel").

Under Federal Rule of Civil Procedure 21, the proper remedy for improper joinder of parties is not dismissal. Rather, "[o]n motion or on its own, the court may at any time, on just terms, add or drop a party. The court may also sever any claim against a party." Id.

In view of Plaintiff's *pro se* status, the Court will afford him one further opportunity to file a Third Amended Complaint that complies with the requirements of the Federal Rules of Civil Procedure. Plaintiff is directed to file a Third Amended Complaint on the standard civil rights form within **TWENTY-ONE (21) DAYS** of the date of this Order. The failure to comply with this Order will result in the dismissal of this case without further notice.

Plaintiff is **WARNED** that if he files a Third Amended complaint that suffers from the same defects as his previous complaints, such pleading will be stricken and the Court will dismiss this case without further notice for Plaintiff's failure to comply with the Court's orders.

The Court notes that Plaintiff has filed eight (8) motions to supplement the Second Amended Complaint (Docs. 15, 19, 20, 27, 28, 29, 30, 31) and a Motion for an Extension of Time to File Supplements (Doc. 26). Upon due consideration, the Motions are **DENIED**. The motions in large part are requests that the Clerk add a number of exhibits to the case. The Court cannot ascertain exactly which document Plaintiff seeks to add exhibits to or how the document(s) support Plaintiff's claims. In the event that Plaintiff is attempting to supplement the Second Amended Complaint, that pleading is no longer operative.

Further, Plaintiff previously moved for an appointment of counsel because he could not afford representation, his imprisonment will greatly limit his ability to litigate his claims, his

knowledge of the law is limited, and he speaks "very little English." (Doc. 9). By Order dated July 27, 2016, the Court denied the Motion. (Doc. 12). The record reflects that Plaintiff has re-filed the same motion on October 2, 2016 and October 3, 2016. (Docs. 16, 18). Upon due consideration, the motions are **DENIED as moot**. The Court has already ruled on the requested relief and Plaintiff does not cite to new grounds to support his request. Plaintiff is also **WARNED** that if he continues to file duplicative motions which include the same requests for relief and improperly expend the Court's judicial resources, the Court will consider imposing sanctions on Plaintiff which may range from striking Plaintiff's filing to a monetary penalty that would be deducted from the inmates account.<sup>1</sup>

Plaintiff has also filed a request with the Clerk's office, which complains about the handling of his mail as "legal" or "special" mail. (Doc. 22). The exact nature of the requested relief is unclear, but it appears that Plaintiff has allegedly had an issue with the opening of his mail and is requesting that the Clerk mark all mail as "legal" or "special" to ensure that it is opened in his presence. Plaintiff's Motion (Doc. 22) is **DENIED**.

First, the regulations and program statements attached to Plaintiff's correspondence/motion already provide that the warden may give "special handling" to mail from the chambers of a federal judge to be opened in the presence of the inmate.<sup>2</sup> In other words, an order directing special labeling seems unnecessary. Second, it appears that Plaintiff claims that only one envelope was mishandled and does not allege that all of his mail from the Court is being opened in violation of the regulation/program statement. Accordingly, Plaintiff may file a grievance with the prison

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<sup>1</sup>See United States v. Green, 2012 WL 6761572 (N.D. Fla. 2012)(discussing the litany of possible sanctions.)

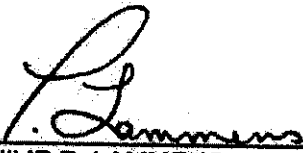
<sup>2</sup> The regulation is 28 C.F.R. § 540.18. The language regarding mail from the chambers of a federal judge is included within Program Statement 5265.11.

with regard to this one item and an order directing special labeling of all mail is unwarranted. If the Court has misconstrued the nature of the requested relief, Plaintiff is reminded that he must file a motion for the Court's consideration pursuant to Rule 3.01 of the Local Rules of this Court and the Federal Rules of Civil Procedure.

Finally, Plaintiff's Motion to Serve the Complaint (Doc. 17) and Motion to Compel Discovery (Doc. 23) are **DENIED** as premature. Plaintiff has not yet filed the Third Amended Complaint and, therefore, the Court has not yet determined that it is due to be served.

**IT IS SO ORDERED.**

**DONE AND ORDERED** at Ocala, Florida, this 20th day of December 2016.

  
\_\_\_\_\_  
PHILIP R. LAMMENS  
United States Magistrate Judge

c: *pro se* Plaintiff

OCAP-1

**U.S. District Court  
Middle District of Florida (Ocala)  
CIVIL DOCKET FOR CASE #: 5:16-cv-00405-WTH-PRL  
Internal Use Only**

Montalban v. Samuels et al  
Assigned to: Senior Judge Wm. Terrell Hodges  
Referred to: Magistrate Judge Philip R. Lammens  
Cause: 28:1331 Federal Question: Bivens Act

Date Filed: 06/20/2016  
Jury Demand: Plaintiff  
Nature of Suit: 550 Prisoner: Civil  
Rights  
Jurisdiction: U.S. Government  
Defendant

**Plaintiff**

**Jose Montalban**

represented by **Jose Montalban**  
11497-179  
COLEMAN USP I  
Federal Correctional Institution  
Inmate Mail/Parcels  
P.O. BOX 1033  
Coleman, FL 33521  
PRO SE

V.

**Defendant**

**Charles E. Samuels, Jr.**  
*Director of the FBOP,  
individual/official capacity*

**Defendant**

**FNU Schultz**  
*Warden, of USP Canaan,  
individual/official capacity*

**Defendant**

**Tamyra Jarvis**  
*Warden, USP Coleman I,  
individual/official capacity*

**Defendant**

**John Doe**  
*Associate Warden of USP Canaan,  
individual/official capacity*

**FNU Bolley**

*Unit manager for B-Unit*

**Defendant**

**Jane Doe**

*Case Manager for E-2 Housing Unit at USP  
Canaan, individual/official capacity  
TERMINATED: 07/20/2016*

**Defendant**

**FNU Smith**

*Case Manager for B Housing Unit at USP  
Coleman I, individual/official capacity*

**Defendant**

**John Doe**

*Correctional Counselor for E-2 Housing  
Unit at USP Canaan, individual/official  
capacity  
TERMINATED: 07/20/2016*

**Defendant**

**FNU McClain**

*Correctional Counselor for B-Housing Unit  
at USP Coleman I, individual/official  
capacity*

**Defendant**

**Anthony Pedone**

*Operations Lieutenant at USP Canaan,  
individual/official capacity*

**Defendant**

**FNU Powell**

*Operations Lieutenant USP Canaan,  
individual/official capacity*

**Defendant**

**John Doe**

*USP Coleman I SIS Lieutenant(s)  
TERMINATED: 07/20/2016*

**Defendant**

**Andrew Wisniewski**

*Food Service Specialist USP Canaan,  
individual/official capacity  
TERMINATED: 07/19/2016*

**Defendant**

[tps://ecf.flmd.uscourts.gov/cgi-bin/DktRpt.pl?7705746965513503-L\\_1\\_0-1](https://ecf.flmd.uscourts.gov/cgi-bin/DktRpt.pl?7705746965513503-L_1_0-1)



**Defendant**

**Corey Vrabel**

*USP Canaan, individual/official capacity*

**Defendant**

**Jason Glossenger**

*USP Canaan, individual/official capacity*

TERMINATED: 07/20/2016

**Defendant**

**William Verbyla**

*USP Canaan, individual/official capacity*

**Defendant**

**FNU Modroff**

*USP Canaan, individual/official capacity*

**Defendant**

**FNU Cox**

*USP Canaan, individual/official capacity*

**Defendant**

**John Doe Correctional Officers**

*14+ at USP Canaan*

**Defendant**

**Bonnie Nowakowski**

*M.DO. at USP Canaan, individual/official capacity*

**Defendant**

**Walter Dobushak**

*D.O. USP Canaan, individual/official capacity*

**Defendant**

**Kenneth Kaider**

*PA-C at USP Canaan, individual/official capacity*

**Defendant**

**Patricia Burgerhoff**

*R.N. at USP Canaan, individual/official capacity*

**Defendant**

**A. Kabonick**

*MT-P at USP Canaan, individual/official capacity*

**Defendant**

Jarrett Tuttle  
EMT-P at USP Canaan, individual/official  
capacity  
TERMINATED: 07/20/2016

**Defendant**

Timothy Baron  
USP Canaan, individual/official capacity

**Defendant**

Dr. Mark Tidwell  
MD at USP Coleman I, individual/official  
capacity

**Defendant**

S. Nikbakht  
MLP, at USP Coleman I, individual/official  
capacity

**Defendant**

Jesse McAllister  
PA-C, at USP Coleman I, individual/official  
capacity  
TERMINATED: 07/19/2016

**Defendant**

FNU Lopez  
HIT, at USP Coleman I, individual/official  
capacity  
TERMINATED: 07/19/2016

**Defendant**

FNU Garcia  
AHSA, at USP Coleman I,  
individual/official capacity  
TERMINATED: 07/19/2016

**Defendant**

C. Donato  
HSA, at USP Coleman I, individual/official  
capacity  
TERMINATED: 07/19/2016

**Defendant**



John Doe  
In uniform, blue color 7 other officers  
TERMINATED: 07/20/2016

**Defendant**


**Defendant**

**All Medical Providers and Staff**

From USP Cannan, in their individual  
capacities

Date Filed	#	Docket Text
06/20/2016	<u>1</u>	COMPLAINT against All Defendants with Jury Demand filed by Jose Montalban. (One incomplete service copy provided.)(MJT) Modified on 6/21/2016 (MJT). (Entered: 06/21/2016)
06/20/2016	<del>1</del> <u>2</u>	MOTION for leave to proceed in forma pauperis/affidavit of indigency by Jose Montalban. (MJT) Motions referred to Magistrate Judge Philip R. Lammens. (Entered: 06/21/2016)
06/20/2016	<u>3</u>	MOTION to Appoint Counsel by Jose Montalban. (MJT) Motions referred to Magistrate Judge Philip R. Lammens. (Entered: 06/21/2016)
06/24/2016	<u>4</u>	NOTICE of designation under Local Rule 3.05 - track 1. Signed by Deputy Clerk on 6/24/2016. (MJT) (Entered: 06/24/2016)
06/24/2016		(Court only) ***COPIES mailed to Unrepresented Parties: Jose Montalban; re <u>4</u> NOTICE of designation under Local Rule 3.05 - track 1 (MJT) (Entered: 06/24/2016)
07/01/2016	<u>5</u>	ORDER directing the Plaintiff to file an Amended Complaint on the standard civil rights complaint form within TWENTY-ONE (21) DAYS of the date of this Order. Ruling on <u>3</u> Motion to appoint counsel is DEFERRED to allow the Court the opportunity to review the Amended Complaint. Signed by Magistrate Judge Philip R. Lammens on 06/29/2016. (MJT) (Entered: 07/01/2016)
07/01/2016		(Court only) ***COPIES mailed to Unrepresented Parties: Jose Montalban; re <u>5</u> Order with a blank 1331 form (MJT) (Entered: 07/01/2016)
07/15/2016	<u>6</u>	MOTION for leave to file an amended complaint by Jose Montalban. (BMN) (Entered: 07/19/2016)
07/15/2016	<u>7</u>	AMENDED COMPLAINT against All Defendants with Jury Demand. filed by Jose Montalban. (Attachments: # <u>1</u> Exhibit-Inmate Statement, # <u>2</u> Exhibit-Inmate Requests, # <u>3</u> Exhibit-Medical Reports, # <u>4</u> Exhibit-Order show cause, # <u>5</u> Exhibit- Letter to Clerk and Order)(BMN) (Entered: 07/19/2016)
07/15/2016	<u>8</u>	MOTION for miscellaneous relief, specifically to serve parties in forma pauperis by Jose Montalban. (BMN) (Entered: 07/19/2016)

07/19/2016		(Court only) *** <u>6</u> MOTION for leave to file the complaint REFERRED to Magistrate Judge Philip R. Lammens. (BMN) Motions referred to Magistrate Judge Philip R. Lammens. (Entered: 07/19/2016)
07/20/2016	<u>9</u>	MOTION to Appoint Counsel by Jose Montalban. (BMN) Motions referred to Magistrate Judge Philip R. Lammens. (Entered: 07/20/2016)
07/20/2016	<u>10</u>	MOTION for leave to file Second Amended complaint by Jose Montalban. (BMN) (Entered: 07/20/2016)
07/20/2016	<u>11</u>	Second AMENDED COMPLAINT against All FBOP Staff from USP Cannan, All FBOP staff from USP Coleman I, All Medical Providers and Staff, Timothy Baron, FNU Boley, Mark Brennan, Patricia Burgerhoff, FNU Cox, Walter Dobushak, John Doe(In blue uniform, nursery room with 14 other officers), John Doe(Associate Warden of USP Canaan, individual/official capacity), FNU Huitt, Tamyra Jarvis, John Doe Correctional Officers, M. Kabonick, Kenneth Kaider, FNU McClain, FNU Miller, FNU Modroff, S. Nikbakht, Bonnie Nowakowski, Anthony Pedone, FNU Phillip, FNU Powell, Charles E. Samuels, Jr, FNU Schultz, FNU Smith, Mark Tidwell, William Verbyla and Corey Vrabel with Jury Demand. filed by Jose Montalban. (Attachments: # <u>1</u> Exhibit)(BMN) (Entered: 07/20/2016)
07/27/2016	<u>12</u>	<b>ORDER denying as moot <u>8</u> Motion to serve parties; denying <u>9</u> Motion to appoint counsel ; granting <u>10</u> Motion for Leave to File second amended complaint. Signed by Magistrate Judge Philip R. Lammens on 7/25/2016. (BMN) (Entered: 07/27/2016)</b>
07/27/2016		(Court only) ***Motions terminated as moot <u>6</u> MOTION for leave to file the complaint filed by Jose Montalban. (BMN) (Entered: 07/27/2016)
07/27/2016		(Court only) ***COPIES mailed to Unrepresented Parties, Jose Montalban, re <u>12</u> Order on Motion for Miscellaneous Relief, Order on motion to appoint counsel and Order on Motion for Leave to File. (BMN) (Entered: 07/27/2016)
07/28/2016		(Court only) ***Motions terminated as moot re <u>3</u> MOTION to Appoint Counsel filed by Jose Montalban. (BMN) (Entered: 07/28/2016)
08/04/2016	<u>13</u>	MOTION to Withdraw <u>10</u> MOTION for leave to file and <u>11</u> Second Amended Complaint titled to the clerk by Jose Montalban. (BMN) (Entered: 08/04/2016)
08/15/2016	<u>14</u>	<b>ORDER denying without prejudice <u>13</u> Motion to Withdraw and <u>11</u> Amended Complaint. Signed by Magistrate Judge Philip R. Lammens on 8/12/2016. (BMN) (Entered: 08/15/2016)</b>
08/15/2016		(Court only) ***COPIES mailed to Unrepresented Parties, Jose Montalban, re <u>14</u> Order on Motion to Withdraw. (BMN) (Entered: 08/15/2016)
09/28/2016	<u>15</u>	MOTION to supplement Second Amended Complaint by Jose Montalban.

09/28/2016		(Court only) *** 15 MOTION to supplement Second Amended Complaint REFERRED to Magistrate Judge Philip R. Lammens. (BMN) Motions referred to Magistrate Judge Philip R. Lammens. (Entered: 09/28/2016)
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Case 1:17-cv-02016-CCC-PT Document 1 Filed 02/03/17 Page 58 of 80

11/04/2016	<u>16</u>	24	PRISONER consent form and financial certificate by Jose Montalban. (BMN) (Entered: 11/07/2016)
11/10/2016	<u>2</u>	25	ORDER granting 2 Motion for leave to proceed in forma pauperis/affidavit of indigency. Signed by Magistrate Judge Philip R. Lammens on 11/10/2016. (JEB) (Entered: 11/10/2016)
11/18/2016	<u>3</u>	26	MOTION for Extension of Time to File supplements re 11 Second Amended Complaint by Jose Montalban. (BMN) (Entered: 11/21/2016)
11/18/2016	<u>26</u>	27	Third MOTION to supplement Second Amended Complaint by Jose Montalban. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit)(BMN) (Entered: 11/21/2016)

PACER Service Center			
Transaction Receipt			
11/21/2016 11:06:15			
PACER Login:	us4946:2654315:3956495	Client Code:	
Description:	Docket Report	Search Criteria:	5:16-cv-00405-WTH-PRL
Billable Pages:	4	Cost:	0.40

REG NO.: 11497-179 NAME: MONTALBAN, JOSE

FBI NO.: 865648PB4 DATE OF BIRTH: 06-11-1972 AGE: 42  
 ARS 1: COP/A-DES  
 UNI T: A/B QUARTERS: B02-202U  
 DETAINERS: YES NOTIFICATIONS: NO

HOME DETENTION ELIGIBILITY DATE: 09-27-2025

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.  
 THE INMATE IS PROJECTED FOR RELEASE: 03-27-2026 VIA GCT REL

-----CURRENT JUDGMENT/WARRANT NO: 030 -----

COURT OF JURISDICTION: PENNSYLVANIA, MIDDLE DISTRICT  
 DOCKET NUMBER: 3:CR-13-001  
 JUDGE: MANNION  
 DATE SENTENCED/PROBATION IMPOSED: 06-19-2014  
 DATE COMMITTED: 07-17-2014  
 HOW COMMITTED: US DISTRICT COURT COMMITMENT  
 PROBATION IMPOSED: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED:	\$200.00	\$00.00	\$00.00	\$00.00

RESTITUTION...	PROPERTY:	NO	SERVICES:	NO	AMOUNT:	\$00.00
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-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE: 011  
 OFF/CHG: 18:111(A) AND (B) FORCIBLY ASSAULTING AND RESISTING A  
 CORRECTIONAL OFFICER AND INFLICTING BODILY HARM (CT-1)  
 18:1791(A)(2); POSSESSION OF A PROHIBITED OBJECT (CT-2)

SENTENCE PROCEDURE: 3559 PLRA SENTENCE  
 SENTENCE IMPOSED/TIME TO SERVE: 180 MONTHS  
 DATE OF OFFENSE: 12-28-2012

G0002, MORE PAGES TO FOLLOW . . .

3-4



U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Institution: COP 1. Name: Montalban, Jose 4. Date & Time of Inventory: 7/15/14 4:00 p  
2. Register No: 11497-179 3. Unit: ES 6. Disposition (Disp.):  
a. Admission b. Hospital c. Write d. Transfer e. Detention  
f. Release g. Incoming Package h. Other (specify) \_\_\_\_\_  
D-Donated M-Mail S-Storage  
K-Keep in Possession  
C-Contraband (Attach BP-3102)

7. Type of Property:

a. Personally Owned Items	Disp.	#	Article	Disp.	#	Article	Disp.	#	Article	Disp.
Batteries			Plastic spoon, exp.			Dental Floss			Food/Tobacco Items	
Belt			Playing Cards			Dentures			Chewing tobacco	
Bills/Id			Purse			Deodorant			Snuff	
Books, Reading			Radio (w/carplug)			Hair oil			Coffee/mate	
hard soft			Religious Medal			Noxema			Cold drink mix, soda	
Books, Religious			Ring			Powder			Fruit	
hard soft			Shirt/Blouse			Razors			Honey, M-protein	
Brassiere			Shoes			Shampoo			Instant chocolate	
Cap, Hat			Shoes, shower			Shaving lotion			Instant coffee	
Coat			Shoes, slippers			Skin lotion				
Coins			Shoes, Tennis			Soap dish				
Comb			Shoes			Toothbrush				
Combination Lock			Shirts			Toothpaste				
Dress			Socks							
Driver's License			Socks, Athletic							
Earp lug			Stamps							
Eyeglass case			Stockings							
Eyeglasses			Sunglasses							
Gloves			Sweater							
Hairbrush/Pick			Sweat pant							
Handkerchief			Sweat Shirt							
Jacket			Trophy							
Jogging Suit			T-shirt							
Legal Materials			Underwear							
Letter			Watch/Watchband							
Magazines										
Mirror										
Nail Clippers										
Pen/Slacks										
Pen/Ballpoint										
Pencils										
Personal Papers										
Photo Album										
Photo										

8. Items Alleged by Inmate to Have Value Over \$100.00  
Description of Property: \_\_\_\_\_  
No individual item over \$100.00  
9. Article(s) listed as "Mail" (M) Are to be forwarded to (Name and Address of Consignee): \_\_\_\_\_

10. Claim Release: a. The receiving officer, as soon after receipt of the property as possible, will review the inventory with the inmate to verify its accuracy. Property that is stored, kept in possession of the inmate, mailed out of the institution, or donated is to be marked in the appropriate section of this inventory form. The receiving officer certifies receipt, review and disposition of the property by signing below. The inmate by signing below certifies the accuracy of the inventory, except as noted on the form, relinquishing of all claim to articles listed as donated; receipt of all allowable items, and receipt of a copy of the inventory. When the inmate claims a discrepancy in the inventory, the receiving officer shall attempt to resolve the discrepancy. If the inmate states that there is missing or damaged property, this information should be noted under COMMENTS.

COMMENTS: \_\_\_\_\_  
Printed Name/Signature of Receiving Officer: WCL, IDB / WCL Date: 7/15/14 Time: 4:00 p  
11497-179 7/15/14

I have today reviewed the property returned to me. \_\_\_\_\_  
b. Upon release of the inmate from the unit, detention, etc., the releasing officer is to give the inmate that property stored, kept in possession of the inmate's housing. The inmate certifies release of the property, except as noted on this form, and receipt of a copy of the inventory, by signing below. When the inmate claims a discrepancy in the inventory, the releasing officer shall attempt to resolve the discrepancy. If the inmate states that there is missing or damaged property, this information should be noted under COMMENTS.

COMMENTS: \_\_\_\_\_  
Printed Name/Signature of Receiving Officer: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_  
11497-179 7/15/14



COC 1330.13.G  
 April 20, 2004  
 Attachment A

## INFORMAL RESOLUTION FORM

NOTICE TO INMATE: Bureau of Prisons Program Statement 1330.13 requires that except as provided in 542.13(b) an inmate shall first present an issue of concern informally to staff and staff shall informally attempt to resolve the issue prior to submitting a BP-9. A separate form must be used for each issue.

\*\*\*\*\*

INSTRUCTIONS: Counselors will complete and attach this form to each Request for Administrative Remedy Form (BP-9) submitted, if not informally resolved.

MONTALBAN JOSE # 11497-179  
 Inmate Name Register No.

B-Unit  
 Qtrs./Unit

[Signature] B-28-M  
 Inmate Signature

1. Specific complaint (one 8 1/2" x 11" continuation page may be attached):

I need help, to get medical care treatments, since the  
date of 7/22/14, I suffer at fracture of my Collar Bone

2. What efforts have been made by the inmate to resolve the complaint informally? To whom has the inmate spoken?

with the (PA'S) and Health services, Counselor McLean, Case Manager  
Mr. Smith

3. What action does the inmate wish to be taken to correct the issue?

I looking for a Medical care treatment for my collar Bone  
Left clavicle, I'm in several pain!!

Correctional Counselor's Comments (including actual steps taken to resolve):

Staff Circle One:

Informally Resolved Not Informally Resolved

Correctional Counselor

Date

Unit Manager's Review

Unit Manager

Date

Distribution by Correctional Counselor:

1. If complaint is informally resolved, maintain original on file in the Unit.

2. If complaint is not informally resolved, attach original to BP-9 Form and forward to Administrative Remedy Clerk for processing.

Inf. Resolution  
 Form Issued  
 to Inmate

Inf. Resolution  
 Form Returned to  
 Counselor

BP-9 Issued  
 to Inmate

BP-9 Returned  
 to Counselor

BP-9 Delivered to  
 Admin Remedy Clerk

Date: 8-28-14

Time: \_\_\_\_\_

Counselor: \_\_\_\_\_

FCC COLEMAN

U.S. DEPARTMENT OF JUSTICE  
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY


Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: MONTALBAN JOSE #11497-179 B-Unit FCC-COLEMAN  
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION  
VSP-0-coleman, FL

Part A- INMATE REQUEST

I Request to you Sir or Mom'm, for Help to get Medical care treatment for my Collar Bone - Left clavicle  
I suffer this injurie in the date of:  
July/22/14, and I'm in Very pain, several time I ask for Help from my Unit team B-Unit, they stated I need to send at (BP-a) directly to the Warden, this issue is outside of the Unit team?

8/28/14  
DATE

  
8/28/14  
SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: \_\_\_\_\_

CASE NUMBER: \_\_\_\_\_

Part C- RECEIPT

Return to:

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT: \_\_\_\_\_

Date: 12/18/14

Inmate Name: Montalban, Jose

Register Number:

11497-179

Unit: B-202

RE: Utilization Review Committee  
Case Review Decision

Dear Patient:

Your Medical case has been reviewed by the members of the Utilization Review Committee (URC). The request for: Plastic Surgery

— Your case was reviewed and approved; your procedure/consult will be scheduled accordingly.

— Your case was reviewed and will need a close follow up by your primary care provider, at this time your procedure is disapproved, and re-submission of the request will be considered if medically indicated.

— At the present time conservative treatment to be continued along with periodic evaluation. You will be re-evaluated and re-submission of the request will be considered if medically indicated.

— Your case was reviewed and it is consider an elective procedure that can wait until you are released from federal custody. The request for the procedure is denied. We will continue to monitor and provide treatment as necessary.

— The pursue of the requested \_\_\_\_\_, is medically acceptable, but not always necessary and/or of limited medical value at this time, per BOP Program Statement 6031.01. However, your condition will continue to be monitored and ongoing treatment will be provided as necessary.

✓ — Pending Region Review

— Other

O. Grajales, MD Clinical Director  
FCC Coleman, Florida  
cc: medical record

Date: 09-22-2014

Inmate Name: MONTALBAN, JOSE

Register Number: 11497-179

Unit: B-202

RE: Utilization Review Committee  
Case Review Decision

Dear Patient:

Your Medical case has been reviewed by the members of the Utilization Review Committee (URC). The request for: ORTHOPEDIC

☒ Your case was reviewed and approved; your procedure/consult will be scheduled accordingly.

☐ Your case was reviewed and will need a close follow up by your primary care provider, at this time your procedure is disapproved, and re-submission of the request will be considered if medically indicated.

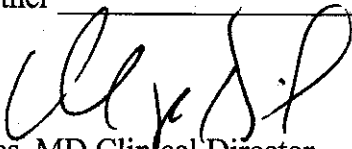
☐ At the present time conservative treatment to be continued along with periodic evaluation. You will be re-evaluated and re-submission of the request will be considered if medically indicated.

☐ Your case was reviewed and it is consider an elective procedure that can wait until you are released from federal custody. The request for the procedure is denied. We will continue to monitor and provide treatment as necessary.

☐ The pursue of the requested \_\_\_\_\_, is medically acceptable, but not always necessary and/or of limited medical value at this time, per BOP Program Statement 6031.01. However, your condition will continue to be monitored and ongoing treatment will be provided as necessary.

☐ Pending Region Review

☐ Other \_\_\_\_\_



O. Grajales, MD Clinical Director  
FCC Coleman, Florida  
cc: medical record

New

**Bureau of Prisons  
Health Services  
Consultation Request**

Inmate Name: MONTALBAN, JOSE  
Date of Birth: 06/11/1972

Reg #: 11497-179 Complex: COX  
Sex: M

Consultation/Procedure Requested: Ophthalmology

Subtype: Dr. Patrowicz

Priority:

Target Date:

Reason for Request:

Fracture of R orbit which shows orbital fracture R lamina papyracea and orbit floor these are chronic. will consult ophthalmology and Plastic surgery. for evaluation and treatment options.

Medications (As of 05/13/2015)

Naproxen 500 MG Tab Exp: 06/28/2015 SIG: Take one tablet by mouth twice daily with food (wrist sprain 4/28/15)

Allergies (As of 05/13/2015)

Penicillins, Fluoxetine

Health Problems (As of 05/13/2015)

Shortness of breath, Other anxiety state, Knee and leg, sprain and strain, Unspecified internal derangement of knee, Other specified viral infection, Sprain and strain of other sites of knee and leg, Contusion of face, scalp, and neck except eye(s), Low back pain, lumbago, Eye, redness or discharge, Other injury to unspecified site, Dermatitis due to drugs and medicines, Dizziness and giddiness, Abdominal pain, Deferred, Psychosocial and environmental problems, GAF 51 - 70, Other spec disorders of stomach and duodenum, Multiple open wounds NOS, Myalgia and myositis, unspecified, Hypertension, Benign Essential, Influenza-Like-Illness (ILI), Knee, Pain in joint, lower leg, Ankle, foot, Pain in joint, Chest pain, unspecified, Chest pain, unspecified, Hypertension, Unspecified essential, Finger(s), fracture, closed, Abdominal pain, Abnormal bowel sounds, Esophageal reflux, Headache, Ankle, sprain and strain, Foot, sprain and strain, Other specified disorders of skin, Acute upper respiratory infection of unspec site, Pityriasis versicolor (Tinea flava, versicolor), General psych exam, requested by the authority, Hyperlipidemia, mixed, Significant Procedures, Esophagus, foreign body, Wrist, sprain and strain

Inmate Requires Translator: No

Language:

Additional Records Required:

Comments:

Requested By: Tidwell, Mark MD

Ordered Date: 12/12/2014 15:11

Level of Care: Medically Necessary - Non-Emergent

42 yo M  $\frac{1}{2}$  orbital fx  
OD -  $\frac{1}{2}$  intermittent  
diplopia.

PERL Exam DARD

CT orbits 12/14

Chronic fx (R) lamina papyracea  
and orbital floor

LLL exophthalmos OD uncorrected

VSC 20/30 -  
20/30

conj quiet on cornea clear on  
ac Dk on lens clear on

T 12  
12

DPE Deferred dilation as  
pt became lightheaded and  
disoriented after topical Fluorescein  
Sodium Benoximate hydrochloride drops. →

**Bureau of Prisons  
Health Services  
Consultation Request**

Inmate Name: MONTALBAN, JOSE  
Date of Birth: 06/11/1972

Reg #: 11497-179      Complex: COX  
Sex: M

**Report of Consultation**

Inmate Name: MONTALBAN, JOSE  
Date of Birth: 06/11/1972  
Institution: COLEMAN USP  
846 NE 54TH TERRACE  
COLEMAN, Florida 33521  
3526896000

Reg #: 11497-179  
Sex: M

*M. TOWELL, MD  
FCC COLEMAN*

① Orbital Fracture with enophthalmos OD  
and intermittent diplopia —

Refer to Oral Maxillo Facial  
for evaluation / management

*Robert J. Smith MD*

*5/15/15*

Completed By:

Report may be hand-written or (preferably) typed on this form. If dictated on office or hospital letterhead to follow, please indicate essential findings or recommendations to be acted upon pending final report.

Follow-up services and primary responsibility for inmate health care remains with Bureau of Prisons staff. While discussion of diagnostic/treatment options with the inmate may be appropriate, they are subject to review by the inmate's primary care provider, the institution utilization review committee and/or the BOP National Formulary.

Please notify institution prior to scheduling surgery dates or follow-up appointments.

Inmate not to be informed of appointment dates.



TO: (Name and Title of Staff Member) <b>S.I.S</b>	DATE: <b>10/14/2015</b>
FROM: <b>MONTALBAN JOSE</b>	REGISTER NO.: <b># 11497-179</b>
WORK ASSIGNMENT: <b>NONE</b>	UNIT: <b>"B"</b>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

**I REQUEST RESPECTFULLY TO**  
**YOU SR. OR MOM'S. I NEED AT COPY**  
**OF MY DETENTION ORDER WHEN I**  
**ARRIVED IN THIS INSTITUTION**  
**FCC-COLEMAN USP (1)**  
**Thank-you -**

**[Signature]**  
**10/14/2015**

(Do not write below this line)

DISPOSITION:

**I Checked your central File and I cannot find**  
**a copy of a detention order from when you**  
**First arrived here on 7/17/2014.**

Signature Staff Member <b>[Signature]</b>	Date <b>10/15/15</b>
--	-------------------------

Record Copy - File; Copy - Inmate  
(This form may be replicated via WP)

This form replaces BP-148.070 dated Oct. 86  
and BP-S148.070 APR 94



**UNITED STATES DISTRICT COURT**  
**MIDDLE DISTRICT OF PENNSYLVANIA**  
**WILLIAM J. NEALON FEDERAL BLDG. & U.S. COURTHOUSE**  
**235 N. WASHINGTON AVENUE**  
**P.O. BOX 914**  
**SCRANTON, PA 18501-0914**

**MALACHY E. MANNION**  
**UNITED STATES DISTRICT JUDGE**

(570) 207-5760  
(570) 207-5769 (FAX)  
JUDGE.MANNION@PAMD.USCOURTS.GOV

October 21, 2015

Mr. Jose Montalban  
11497-179  
USP Coleman  
P.O. Box 1033  
Coleman, FL 33521

Dear Mr. Montalban,

I have received your letter dated October 9, 2015 concerning your legal papers. The court records do not include the information you have requested. I am therefore forwarding a copy of your letter to the United States Marshal's Service for their consideration. You can reach the U.S. Marshal's at the William J. Nealon Federal Building and U.S. Courthouse, 235 North Washington Avenue, 2<sup>nd</sup> Floor, Scranton, PA 18501.

Very truly yours,

A handwritten signature in black ink, appearing to read "Malachy E. Mannion", is written over a horizontal line.

**Malachy E. Mannion**  
**U.S. District Judge**

MEM/bhs

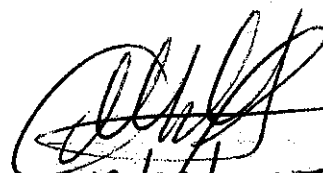
O:\Mannion\shared\letters\PRISONER\montalban.wpd



TO: (Name and Title of Staff Member) COUNSELOR McLEAN	DATE: 10/22/2015
FROM: MONTALBAN JOSE	REGISTER NO.: # 11497-179
WORK ASSIGNMENT: NONE	UNIT: B

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

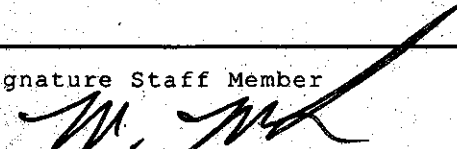
Did you receive a response from USP Cannan pertaining to my property? They've had my property since 2014.  
Thank you

  
10/22/2015

(Do not write below this line)

DISPOSITION:

I have attempted to locate the legal property that you claim was left at U.S.P. Cannan when you transferred. According to the staff there, R&D, SHU, and Unit team; there is no property there.

Signature Staff Member 	Date 10/23/15
---	------------------

Record Copy - File; Copy - Inmate

PDF

Prescribed by P5511

This form replaces BP-148.070 dated Oct 86  
and BP-S148.070 APR 94

FILE IN SECTION 6 UNLESS APPROPRIATE FOR ~~PROSECUTOR~~ FOLDER

SECTION 6

## INFORMAL RESOLUTION FORM

NOTICE TO INMATE: Bureau of Prisons Program Statement 1330.13 requires that except as provided in 542.13(b) an inmate shall first present an issue of concern informally to staff and staff shall informally attempt to resolve the issue prior to submitting a BP-9.

INSTRUCTIONS: Counselors will complete and attach this form to each Request for Administrative Remedy Form (BP-9) submitted, if not informally resolved.

MONTALBAN JOSE #11497-179

Inmate Name

Register No.

Quarters/Unit

Inmate Signature

"B"

10/23/15

1. Specific complaint (one 8 1/2 x 11" continuation page may be attached):

Did you received a response from (USP. CANNAN) pertaining to my property? they're had my property since 2014 (legal property)

2. What efforts have been made by the inmate to resolve the complaint informally? To whom has the inmate spoken?

COUNSELOR McCLAN "B" UNIT

3. What action does the inmate wish to be taken to correct the issue?

RECOVER MY PROPERTY, "LEGAL DOCUMENT" FROM THE U.S. COURT

Correctional Counselor's Comments (including actual steps taken to resolve):

I have attempted to locate property for you at U.S.P. Canaan on numerous occasions at your request. The Staff there say that they do not have property there for you

Correctional Counselor Signature

Date

Staff Circle One:

Informally Resolved

Not Informally Resolved

Unit Manager's Review:

Unit Manager Signature

Date

Distribution by Correctional Counselor:

1. If complaint is informally resolved, forward original to Administrative Remedy Clerk for filing.
2. If complaint is not informally resolved, attach original to BP-9 Form and forward to Administrative Remedy Clerk for processing.

INF. RESOLUTION  
FORM ISSUED  
INMATE

INF. RESOLUTION  
FORM RETURNED TO  
COUNSELOR

BP-9 ISSUED  
TO INMATE

BP-9 RETURNED  
TO COUNSELOR

BP-9 DELIVERED TO  
ADMIN. REMEDY CLERK TO

Date:

10/23/15

10/23/15

Time:

1030

11:00

Counselor:

MM

Jup

BP-A0148

JUNE 10

## INMATE REQUEST TO STAFF CDFRM

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

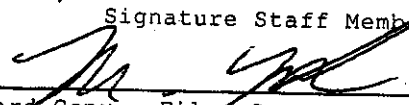
TO: (Name and Title of Staff Member) <b>COUNSELOR: MCCLAIN</b>	DATE: <b>11/04/2015</b>
FROM: <b>MONTALBAN JOSE</b>	REGISTER NO.: <b>#11497-139</b>
WORK ASSIGNMENT: <b>UNIT ORDELY</b>	UNIT: <b>B</b>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

Sir, Can you please inform me of the status of my legal documents that was lost by U.S. Marshall Service of Pennsylvania, when I was taken from the County Jail to U.S.P. Canaan! CAN you please also notify me of the name of the U.S. Marshall Agent who has called you in reference to the request of my legal documents! This request is being made in conjunction with the filing of my BP.8 and BP.9 which I have already submitted. Please I will like to know who from the U.S. Marshall's office has contacted you in regards (Do not write below this line) to this matter

## DISPOSITION:

I was contacted by the U.S. Marshals Service on 11/4/15 regarding a letter you sent to them pertaining to your legal work. They investigated your claim that they transported you from a local facility back to USP Canaan. You were on their manifest the day that you stated. You were transported with your legal work to USP Canaan. They do not have your legal work and will not respond to your letter for information because they don't have any to give you

Signature Staff Member 	Date <b>11/5/15</b>
---	------------------------

Record Copy - File Copy - Inmate

PDF

Prescribed by P5511

This form replaces BP-148.070 dated Oct 86  
and BP-S148.070 APR 94

FILE IN SECTION 6 UNLESS APPROPRIATE FOR PRESERVATION FOLDER

SECTION 6

DEPARTMENT OF JUSTICE  
Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

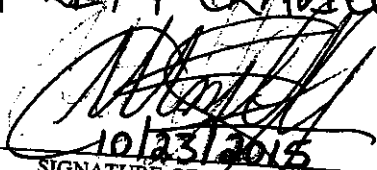
From: MONTALBAN JOSE # 11497-179 " B " FCC COLEMAN  
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST

I SEND THIS REQUEST TO YOU MOM'M OR SR:  
(WARDEN), THIS IS ABOUT MY PROPERTY, LEGAL DOCUMENTS  
FROM MY CASE (U.S. COURT).

I REQUEST TO MY COUNSELOR (B-UNIT) SINCE  
I ARRIVED IN THIS UNIT, I WAS CONCERNED ABOUT  
MY PROPERTY, HOW I START MY APPEAL FROM MY CASE  
IF I DONT HAVE MY PROPERTY.  
(ALSO I SUFFER AT INJURY IN MY LEFT CLAVICULE  
(LEFT SHOULDER) 7/22/2014

10/23/2015  
DATE

  
10/23/2015  
SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.  
FIRST COPY: WARDEN'S ADMINISTRATIVE REMEDY FILE

WARDEN OR REGIONAL DIRECTOR

CASE NUMBER: 840409-F1

CASE NUMBER: \_\_\_\_\_

Part C- RECEIPT

turn to:

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT: \_\_\_\_\_

DATE

RECIPIENT'S SIGNATURE

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: OCTOBER 28, 2015

for U. Burkes  
FROM: ADMINISTRATIVE REMEDY COORDINATOR  
COLEMAN I USP

TO : JOSE MONTALBAN, 11497-179  
COLEMAN I USP UNT: A/B QTR: B01-125L  
P.O. BOX 1023  
COLEMAN, FL 33521

FOR THE REASONS LISTED BELOW, THIS ADMINISTRATIVE REMEDY REQUEST IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 840409-F1 ADMINISTRATIVE REMEDY REQUEST  
DATE RECEIVED : OCTOBER 26, 2015  
SUBJECT 1 : PERSONAL LEGAL MATERIALS AND LAW BOOKS  
SUBJECT 2 : OTHER MEDICAL MATTERS  
INCIDENT RPT NO:

REJECT REASON 1: YOU RAISE MORE THAN ONE ISSUE RELATED ISSUE OR APPEAL MORE THAN ONE INCIDENT REPORT (INCIDENT NUMBER). YOU MUST FILE A SEPARATE REQUEST/APPEAL FOR EACH UNRELATED ISSUE OR INCIDENT REPORT YOU WANT ADDRESSED.

REJECT REASON 2: YOU MUST PROVIDE MORE SPECIFIC INFORMATION (E.G. CASE NO.) ABOUT YOUR REQUEST/APPEAL SO THAT IT MAY BE CONSIDERED.

REJECT REASON 3: YOU MAY RESUBMIT YOUR REQUEST IN PROPER FORM WITHIN 5 DAYS OF THE DATE OF THIS REJECTION NOTICE.

REQUEST FOR ADMINISTRATIVE REMEDY

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: MONTALBAN JOSE #11497-179 B FCC-COLEMAN USP-①  
LAST NAME, FIRST, MIDDLE INITIAL . REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST

I SEND THIS REQUEST TO YOU WARDEN OR BY  
(WARDEN), THIS IS ABOUT MY PROPERTY, (LEGAL DOCUMENTS FROM  
(U.S. COURT), I REQUEST TO MY COUNSELOR (B-UNIT) SINCE I ARRIVE  
IN THIS UNIT, I WAS CONCERNED ABOUT MY PROPERTY, HOW I CAN  
START MY APPEAL, FROM MY CASE (3:CR:13-0001) IF I DON'T  
HAVE MY PROPERTY...

I HAVE THE CONSTITUTIONAL RIGHT TO HAVE ACCESS TO  
THE COURT (FEDERAL OR STATE)...

(TWO) U.S. MARSHALL, TRANSPORT ME FROM (LACKAWANNA  
COUNTY JAIL, (SCRANTON, PA.) TO: USP-CANNAN, WITH MY LEGAL DOCUMENT

11/02/2015  
DATE

11/02/2015  
SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

FIRST COPY: WARDEN'S ADMINISTRATIVE REMEDY FILE

CASE NUMBER: 890409-1X2

Part C- RECEIPT

Return to:

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT:

DATE



From: **MONTALBAN JOSE #11497-179** **B** **USP-1**  
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION **FCG COLEMAN**

Part A- INMATE REQUEST

I suffer at Injury on date July 22/2014 with my "Collar Bone" fractured in "I was Black-out or pass out", Inside track field of Recreation. And all this time I suffer several pain and I don't see it, Help for the Medical; Only I see it at "Delay" to Obtain Medical treatment adequate for my "Collar-Bone Fractured". I can't Move it all, I received another Answer But was a long time at 00!!! But is about my Property "Legal Document"

11 / 02 / 2015

*[Signature]*

Part B- RESPONSE

SIGNATURE OF REQUESTER

DATE

WARDEN OR REGIONAL DIRECTOR

If unsatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL RETURN TO INMATE

CASE NUMBER

PHCCS RECEIPT

CASE NUMBER

RECEIVED

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

USP EVN



Printed on Recycled Paper

BF-229 (10)  
APRIL 1992



REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: NOVEMBER 6, 2015

*for U. Burkes*  
FROM: ADMINISTRATIVE REMEDY COORDINATOR  
COLEMAN I USP

TO : JOSE MONTALBAN, 11497-179  
COLEMAN I USP UNT: A/B QTR: B01-125L  
P.O. BOX 1023  
COLEMAN, FL 33521

FOR THE REASONS LISTED BELOW, THIS ADMINISTRATIVE REMEDY REQUEST  
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY  
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 840409-F2 ADMINISTRATIVE REMEDY REQUEST  
DATE RECEIVED : NOVEMBER 5, 2015  
SUBJECT 1 : PERSONAL LEGAL MATERIALS AND LAW BOOKS  
SUBJECT 2 :  
INCIDENT RPT NO:

REJECT REASON 1: YOUR REQUEST IS UNTIMELY. INSTITUTION AND CCC REQUESTS  
(BP-09) MUST BE RECEIVED W/20 DAYS OF THE EVENT COMPLAINED  
ABOUT.

REJECT REASON 2: SEE REMARKS.

REMARKS : THE INCIDENT YOU REFERENCE OCCURRED 7/2014; YOU HAD  
TWENTY DAYS TO FILE YOUR REQUEST THROUGH THE  
ADMINISTRATIVE REMEDY PROCESS.



- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Federal Bureau of Prisons  
Southeast Regional Office  
Adm. Rm. Remedy Department  
3800 Camp Creek, Pkwy, SW  
Atlanta, GA 30331

A. Signature

X *[Signature]*
☐ Agent  
☐ Addressee

B. Received by (Printed Name)

R. Taylor

C. Date of Delivery

1/15/16

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☒ No

3. Service Type

☒ Certified Mail ☐ Express Mail  
☒ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7015 0640 0006 2886 0621

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-15

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

United States Dept. of Justice  
Civil Rights Division;  
Special Litigation Section  
950 Pennsylvania Ave, N.W.  
Washington, DC 20530

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *[Signature]*
☐ Agent  
☐ Addressee

B. Received by (Printed Name)

JAN 27 2016

C. Date of Delivery

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☒ No

3. Service Type

☒ Certified Mail ☐ Express Mail  
☒ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7015 0640 0006 2886 0652

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-154

# U.S. Postal Service<sup>TM</sup>

## CERTIFIED MAIL<sup>®</sup> RECEIPT

Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

OFFICIAL USE

Certified Mail Fee

\$

Extra Services &amp; Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$  
☐ Return Receipt (electronic) \$  
☐ Certified Mail Restricted Delivery \$  
☐ Adult Signature Required \$  
☐ Adult Signature Restricted Delivery \$

Postage

\$

Total Postage and Fees

\$

Sent To

Street and Apt. No., or PO Box No.

City, State, ZIP+4<sup>®</sup>

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

# U.S. Postal Service<sup>TM</sup>

## CERTIFIED MAIL<sup>®</sup> RECEIPT

Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

OFFICIAL USE

Certified Mail Fee

\$

Extra Services &amp; Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy) \$  
☐ Return Receipt (electronic) \$  
☐ Certified Mail Restricted Delivery \$  
☐ Adult Signature Required \$  
☐ Adult Signature Restricted Delivery \$

Postage

\$

Total Postage and Fees

\$

Sent To

Street and Apt. No., or PO Box No.

City, State, ZIP+4<sup>®</sup>

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

- SENDER: COMPLETE THIS SECTION**
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
  - Print your name and address on the reverse so that we can return the card to you.
  - Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Federal Bureau of Prisons  
Northeast Regional Offices  
Tort Claim Department  
2nd & Chestnut Streets  
U.S. Customs House, 7th Floor  
Philadelphia, PA 19106

2. Article Number

(Transfer from service label)

7015 0640 0006 2886 0669

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *J. Bowen*☐ Agent☐ Addressee

B. Received by (Printed Name)

*J. Bowen*

C. Date of Delivery

D. Is delivery address different from item 1?

If YES, enter delivery address below

☐ Yes☒ No

3. Service Type

☒ Certified Mail☐ Express Mail☒ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Federal Bureau of Prisons  
Northeast Regional Office  
ADMIN. Remedy Dept.  
2nd & Chestnut Streets  
U.S. Customs House, 7th Floor  
Philadelphia, PA 19106

2. Article Number

(Transfer from service label)

7015 0640 0006 2886 0638

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-164

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *J. Bowen*☐ Agent☐ Addressee

B. Received by (Printed Name)

*J. Bowen*

C. Date of Delivery

D. Is delivery address different from item 1?

If YES, enter delivery address below

☐ Yes☒ No

3. Service Type

☒ Certified Mail☐ Express Mail☒ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

# U.S. Postal Service<sup>TM</sup>

## CERTIFIED MAIL<sup>®</sup> RECEIPT

Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

OFFICIAL USE

Certified Mail Fee

\$

Extra Services &amp; Fees (check box, add fee as appropriate)

☐ Return Receipt (hardcopy)☐ Return Receipt (electronic)☐ Certified Mail Restricted Delivery☐ Adult Signature Required☐ Adult Signature Restricted Delivery

Postage

\$

Total Postage and Fees

\$

Sent To

Street and Apt. No., or P.O. Box No.

City, State, ZIP+4<sup>®</sup>Postmark  
Here

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

# U.S. Postal Service<sup>TM</sup>

## CERTIFIED MAIL<sup>®</sup> RECEIPT

Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

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Certified Mail Fee

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Extra Services &amp; Fees (check box, add fee as appropriate)

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Postage

\$

Total Postage and Fees

\$

Sent To

Street and Apt. No., or P.O. Box No.

City, State, ZIP+4<sup>®</sup>Postmark  
Here

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

UNITED STATES POSTAL SERVICE

PA 191

22 JAN '16

PM 10 L

First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Jose Montalban  
Register #: 11479-179  
FCC; Coleman USP-1  
P.O. Box 1033/Unit-B  
Coleman, Florida 33521-1033



UNITED STATES POSTAL SERVICE

PA 191

22 JAN '16

PM 10 L

• Sender: Please print your name, address, and ZIP+4 in this box •

Jose Montalban  
Register #: 11479-179  
FCC; Coleman USP-1  
P.O. Box 1033/Unit-B  
Coleman, Florida 33521-1033



U.S. Department of Justice  
Federal Bureau of Prisons  
Northeast Regional Office

U.S. Custom House - 7th Floor  
2nd and Chestnut Street  
Philadelphia, PA 19106

Official Business

PHILADELPHIA

PA 191

25 JAN '16

PM 5 L



02 1P  
\$ 000.485  
0001126544 JAN 22 2016  
MAILED FROM ZIP CODE 19106

FROM: ADMINISTRATIVE REMEDY COORDINATOR  
NORTHEAST REGIONAL OFFICE

TO : JOSE MONTALBAN, 11497-179  
COLEMAN I USP UNT: A/B QTR: B01-125L  
P.O. BOX 1023  
COLEMAN, FL 33521

33521102323



CLAIM FOR DAMAGE,  
INJURY, OR DEATH

INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

FORM APPROVED  
OMB NO. 1105-0008

1. Submit to: Appropriate Federal Agency:

Federal Bureau of Prison Offices  
for the Northeast Region  
2nd & Chestnut streets  
U. S. Customs House; 7th Floor  
Philadelphia, PA 191062. Name, address of claimant, and claimant's personal representative if any.  
(See instructions on reverse). Number, Street, City, State and Zip code.Mr. Jose Montalban  
Register #: 11497-179  
FCC; Coleman USP-1  
P.O. Box 1033/Unit-B; Coleman, FL 3352

3. TYPE OF EMPLOYMENT

☐ MILITARY ☒ CIVILIAN

4. DATE OF BIRTH

11JUN1973

5. MARITAL STATUS

Married

6. DATE AND DAY OF ACCIDENT

28DEC2012

7. TIME (A.M. OR P.M.)

@7:30-45p.m.

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence, and the cause thereof. Use additional pages if necessary).

On December 28, 2012, I was involved in a assault with a FBOP staff member at USP-Canaan. While I was being subdued by approximately 8-13 staff members initially I was punched, kicked and hit with blunt metal objects (security keys and a 2 holed hole punch) which was used to inflict pain and injury to my body and head area while most of the assault was directed to my face and head area I was also hit all over my body and torso. (see attached for continuation)

9. PROPERTY DAMAGE

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED.  
(See instructions on reverse side).

I suffer paralyzing seizures daily and have broken my arm bones and my clavicle. I sustained an orbital and skull fracture from the assault that has never been treated or have I been seen by any specialists.

10. PERSONAL INJURY/WRONGFUL DEATH

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

For over 3 years I have been walking around with an unknown neurological problem, broken bones in my skull and am in constant pain and fear of serious possible undiagnosed brain damage that has never been tested by CT-Scan or MRIs to do exploratory radiological tests for a specialist to review, diagnose and receive treatment for (see Attached 2)

11. WITNESSES

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

12. (See instructions on reverse).

AMOUNT OF CLAIM (in dollars)

12a. PROPERTY DAMAGE

punitive:

\$250,000.00/per

Assaulting staff member

12b. PERSONAL INJURY

compensatory:

250,000.00/per

assaulting staff member

12c. WRONGFUL DEATH

XXXXXXXXXX

nominal:

\$1,00-1,000,00

12d. TOTAL (Failure to specify may cause

forfeiture of your rights)

\$6,500,00.00-6513,000.00

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).

Without Prejudice, All  
01-04-16 Rylts reserved

13b. PHONE NUMBER OF PERSON SIGNING FORM

N/A

14. DATE OF SIGNATURE

04JAN2016

CIVIL PENALTY FOR PRESENTING  
FRAUDULENT CLAIMCRIMINAL PENALTY FOR PRESENTING FRAUDULENT  
CLAIM OR MAKING FALSE STATEMENTS

The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

## Line #8: Basis for Claim:

As I was being taken from the Staff office in Food Service to Medical these same staff members @13 in total had continued to punch and kick me along the entire way after keeping me inside the kitchen area for a few minutes which seemed like an hour while each staff member took turn assaulting me with their fists and boots. Along the way each egress we came across whether it was a solid barred security gate or a steel door these same staff members used my head as a means to open each doorway like I was some type of battering ram. I passed 5 steel doors and 2 steel barred security gates, and as I stated my head was used as an tool to push them open. After I arrived to Medical I was stripped naked and the RN Ms. Burgerhoff, Patricia wiped my face clean of blood physically looked at my nose and as she walked away stated, "...there's nothing wrong with you. ..." and when she left 7 of the 13 staff members came into the room and started to punch me and at one point one had placed me in a head-lock and started to choke me out, the Officer's name was Mr. Vrabella while Officer Modrow held both my arms so I could not escape or move. At this point I believed they were going to kill me, then all of a sudden I was slammed to the ground and started to kick me while another officer grabbed my head and started pounding it on the floor. After I was beaten for a short while RN Burgerhoff came into the room and I could hear her tell the officers what were they doing and I saw briefly she had ripped some forms she had up and while doing that the officers stated, "oh he fell..." RN Burgerhoff's voice showed she was not happy with their actions and I was shortly taken from Medical to SHU where the beatings continued and my head used as a door ram until I finally passed out from the pain or was knocked unconscious. I had had my thumb bent backward and broken, many bruises and abrasions all over my body and head, my eyes were swollen shut and I physically could NOT open them for over 14 days, I had a difficult time breathing through my nose, my jaw was so swollen I could not even eat for I could barely open my mouth. Regardless, staff refused to bring me any food for over ten days stating I requested a Food Strike which was a lie and if it wasn't for the cellie I had providing me  $\frac{1}{2}$  of his meals I would never have been fed. Every day some staff member would kick the cell door and make the comment "he isn't dead yet!" Each day I feared I would either get another attack or would die from my injuries, newly developed seizures that would incapacitate me and at no time did medical do anything



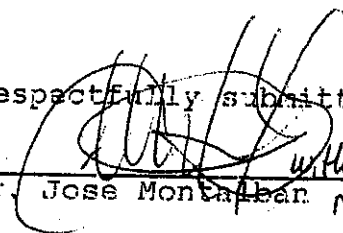
Line 10: ...Nature and extent of each injury:

...to come to an absolution and resolution of my medical needs as deemed medically necessary by qualified and certified specialists.

My pain and suffering caused by these known and unknown USP Canaan staff members clearly constitutes clear and knowing of their actions against my person to be cruel and unusual and beyond the grounds and policy dictated by FBOP in controlling a conflict. The fact that these staff members were immediately taken to an outside hospital the same evening as the assault to be treated for their injuries (lacerations to Officer Wisniewski's face & a jammed pinkie finger on Officer Brennen) while I still am waiting to have exploratory tests performed to diagnose the extent of my injuries and that my broken and fractured bones are now by this point set where they lay broken will have to be re-broken and re-set in their natural formation. Well, I pray they can be repaired after such a long period of time. I fear that I will never be normal physically or mentally ever again due to this event. I'm afraid that if whatever is causing me to have these seizures that leave me incapacitated and vulnerable as they have already caused me more bodily damage than what was done initially by these staff members that I never had prior to December 28, 2012, that I will no longer be able to ever perform normally in the outside world upon release. Also, the fact I have taken so long to process this Tort Claim is due to staff's intentional destruction of my personal property I have had accrued in the prior ten years and all my legal paperwork from my Trial has been also lost or damaged. I have come to USP-Coleman #1 with absolutely no property and legal work which I had with me at the Lackawanna County Jail and was packed out when I had been sent back to USP-Canaan and was never seen again. I've tried for the past two plus years trying to get my property and legal materials all to no avail and I have had to use other inmates to assist me in getting any/or all necessary paperwork to file grievances, Torts, Court and attorney's request for assistance I have been either told by staff I should STOP all/or any attempts I may try to get back into court or any other form of relief I need. This is also a violation of my Due Process Clause and my right to my property.

Dated: January 4, 2016

Respectfully submitted,

  
Mr. Jose Montalban *without prejudice all rights reserved*

\*\*\*SENSITIVE REMEDY\*\*\*SENSITIVE REMEDY\*\*\*SENSITIVE REMEDY\*\*\*SOUTHEAST

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: Montalban, Jose 11497-179 Unit-B FCC; Coleman USP-1  
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

**Part A - REASON FOR APPEAL** Since the date of December 28, 2012, Mr. Montalban on the 28th was involved in an assault with staff, while being subdued he was deliberately assaulted by USP Canaan's staff, who reported to an Officer's body alarm call. After, during and before Mr. Montalban was subdued and shackled by several officers and during this they used violent and unnecessary use of force to instill physical pain and damage by punching, kicking, and using blunt metal objects (security keys, and a two-hole hole punch) to Mr. Montalban's head and body areas. The most damage and assault was directed to Mr. Montalban's head where he has suffered a broken orbital bone, some type of fracture to his forehead region, and to date he has not received any treatment to correct these damages, nor even after a District Judge had ordered and gave a directive for the Marshals/FBOP to provide exploratory and exculpatory radiological testing (CT Scans & MRIs, etc.) performed to assess if any internal damages have been caused (since his attack Mr. Montalban has had on a daily occurrence been through multiple seizures that basically has caused him to break his clavicle bone and both bones in his forearm). Even though he has had his clavicle bone repaired, he has yet to be diagnosed by any outside specialists for the injuries to his head and given no clear indication of when he will if at all be seen by any outside specialists or receive any exculpatory and explorative tests done to assess how much damage has been caused by these assailants at USP Canaan. The doctor and medical staff at USP-1 Coleman are reluctant and cynical in treating Mr. Montalban's injuries. This is not...

DATE

SIGNATURE OF REQUESTER

**Part B - RESPONSE**

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: \_\_\_\_\_

**Part C - RECEIPT**

CASE NUMBER: \_\_\_\_\_

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: \_\_\_\_\_

DATE

SIGNATURE, RECIPIENT OF REGIONAL APPEAL



U.S. Department of Justice

Regional Administrative Remedy Appeal

Federal Bureau of Prisons

\*\*\*SENSITIVE REMEDY\*\*\*SENSITIVE REMEDY\*\*\*NORTHEAST

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-DIR-9 including any attachments must be submitted with this appeal.

From: Montalban, Jose 11497-179 Unit-B FCC; Coleman USP-1  
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

**Part A—REASON FOR APPEAL** On December 28, 2012, Mr. Montalban has been placed in SHU, sent to Lackawana County Jail for charges against him for Assault on an Officer w/ a Dangerous Weapon, where he was sentenced (even though he contends he never had a weapon, but did assault the officer in fact hence the reasoning he is sending in this BP-10) and subsequently sent back to USP Canaan where he was in possession of all his legal documents at Lackawana County Jail that he did observe the Jail official turn over to the U.S. Marshals to be delivered back with Mr. Montalban on his return to USP Canaan. Upon his arrival to USP Canaan than shortly thereafter transferred to USP-1 Coleman did Mr. Montalban in fact been notified that he was in receipt of NO PERSONAL, LEGAL OR OTHER PROPERTY upon his arrival to USP-1 Coleman and since his arrival to USP-1 Coleman circa July 2014, Mr. Montalban has written numerous Cop-Outs to his Unit Team whom contacted the U.S. Marshals and USP Canaan as well as wrote his Sentencing Judge of his Assault charge asking to intercede on this matter (Judge's response stated he cannot assist on internal [FBOP] matters nor do they have any of his possessions, that Mr. Montalban must resolve his problems with his property with the FBOP...) all to no avail as of the date of this grievance. Mr. Montalban has been incarcerated for over 9 years prior to his recent charges and has most assuredly accumulated personal property, family correspondence, commissary food items, etc. (see attached commissary receipts) as well as legal materials from his original criminal conviction, yet he is transferred with NOTHING.

01-04-16

DATE

SIGNATURE OF REQUESTER

**Part B—RESPONSE**

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: \_\_\_\_\_

**Part C—RECEIPT**

CASE NUMBER: \_\_\_\_\_

Return to: \_\_\_\_\_  
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: \_\_\_\_\_



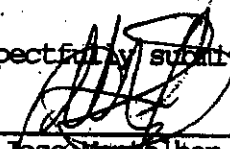
**\*\*\*SENSITIVE REMEDY\*\*\*SENSITIVE REMEDY\*\*\*SOUTHEAST/NORTHEAST**

is not to say USP-1 Coleman's medical are deliberately interfering with my right to medical access, but they are not providing me with the care necessary to resolve my issues in any fashionable time-frame. I'm in constant fear that I've had serious brain damage cause by USP Canaan's staff and each day it may be progresively getting worse. I have notified the Middle District of Florida's Federal Court for an Temporary Injunction for relief and assistance as well as I have written the U.S. D.O.J. and the F.B.O.P.'s offices for their intervention of this matter.

I request to 1) have all exploratory testing (CT-Scans, MRIs, etc.) performed and for these results to be , 2) provided to a Neuro & Orthopedic Specialists to be evaluated and to be seen immediately by these specialists as well, 3) to have any/or all of theses specialists recommendations and treatment orders to be followed and carried out without any delay, and 4) for USP-1 Coleman's staff to not retaliate, interfere with, or inhibit in any way my access to the request I ask and not rtaliatate, interfere with or inhibit my access to any/or all outside organizations or family members for assistance/ or help I may need to have these needs met.

Dated: 01-04-16

Respectfully submitted,

  
Mr. Jose Montalban  
Reg.#: 11497-179  
FCC; Coleman USP-1  
P.O. Box 1033/ Unit-B  
Coleman, Florida 33521-1033

U.S. Department of Justice

Regional Administrative Remedy Appeal

Federal Bureau of Prisons

\*\*\*SENSITIVE REMEDY\*\*\*SENSITIVE REMEDY\*\*\*SENSITIVE REMEDY\*\*\*NORTHEAST

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-DIR-9 including any attachments must be submitted with this appeal.

From: Montalban, Jose 11497-179 Unit-B FCC; Coleman USP-1  
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A—REASON FOR APPEAL Since the date of December 28, 2012, Mr. Montalban on the 28th was involved in an assault with staff, while being subdued he was deliberately assaulted by USP Canaan's staff who reported to an Officer's body alarm call. After, during and before Mr. Montalban was subdued and shackled by several officers and during this they used violent and unnecessary use of force to instill physical pain and damage by punching, kicking, and using blunt metal objects (security keys, and a two-hole hole punch) to Mr. Montalban's head and body areas. The most damage and assault was directed to Mr. Montalban's head where he has suffered a broken orbital bone, some type of fracture to his forehead region, and to date he has not received any treatment to correct these damages nor even after a District Judge had ordered and gave a directive for the Marshals/FBOP to provide exploratory and exculpatory radiological testing (CT Scans & MRIs, etc.) performed to assess if any internal damages have been caused (since his attack Mr. Montalban has had on a daily occurrence been through multiple seizures that basically has caused him to break his clavicle bone and both bones in his forearm). Even though he has had his clavicle bone repaired, he has yet to be diagnosed by any outside specialists for the injuries to his head and given no clear indication of when he will if at all be seen by any outside specialists or receive any exculpatory and explorative tests done to assess how much damage has been caused by these assailants at USP Canaan. The doctor and medical staff at USP-1 Coleman are reluctant and cynical in treating Mr. Montalban's injuries. This is not...

DATE

SIGNATURE OF REQUESTER

Part B—RESPONSE

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: \_\_\_\_\_

Part C—RECEIPT

CASE NUMBER: \_\_\_\_\_

Return to: \_\_\_\_\_  
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: \_\_\_\_\_

U.S. Department of Justice

Regional Administrative Remedy Appeal

Federal Bureau of Prisons

\*\*\*SENSITIVE REMEDY\*\*\*SENSITIVE REMEDY\*\*\* SOUTHEAST

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-DIR-9 including any attachments must be submitted with this appeal.

From: <u>Montalban, Jose</u>	<u>11497-179</u>	<u>Unit-B</u>	<u>FCC; Coleman USP-1</u>
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

**Part A—REASON FOR APPEAL** On December 23, 2012, Mr. Montalban has been placed in SHU, sent to Lackawana County Jail for charges against him for Assault on an Officer w/ a Dangerous Weapon, where he was sentenced (even though he contends he never had a weapon, but did assault the officer in fact hence the reasoning he is sending in this BP-10) and subsequently sent back to USP Canaan where he was in possession of all his legal documents at Lackawana County Jail that he did observe the Jail official turn over to the U.S. Marshalls to be delivered back with Mr. Montalban on his return to USP Canaan. Upon his arrival to USP Canaan than shortly thereafter transferred to USP-1 Coleman did Mr. Montalban in fact been notified that he was in receipt of NO PERSONAL, LEGAL OR OTHER PROPERTY upon his arrival to USP-1 Coleman and since his arrival to USP-1 Coleman circa July 2014, Mr. Montalban has written numerous Cop-Outs to his Unit Team whom contacted the U.S. Marshalls and USP Canaan as well as wrote his sentencing Judge of his Assault charge asking to intercede on this matter (Judge's response stated he cannot assist on internal [FBOP] matters nor do they have any of his possessions that r. Montalban must resolve his problems with his property with the FBOP...) all to no avail as of the date of this grievance. Mr. Montalban has been incarcerated for over 9 years prior to his recent charges and has most assuredly accumulated personal property, family correspondence, commissary food items, etc. (see attached commissary receipts) as well as legal materials from his original criminal conviction, yet he is transferred with NOTHING.

01-04-16

DATE

SIGNATURE OF REGIONAL DIRECTOR

**Part B—RESPONSE**

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: \_\_\_\_\_

**Part C—RECEIPT**

CASE NUMBER: \_\_\_\_\_

Return to:

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT: \_\_\_\_\_



PRINTED ON RECYCLED PAPER

BP-230(13)

\*\*\*SENSITIVE REMEDY\*\*\*SENSITIVE REMEDY\*\*\* SOUTHEAST/NORTHEAST

Mr. Montalban has since the writing of this grievance sent a Motion for an Temporary Injunction with the Middle District Court of Florida to further inhibit staff's reprisals and retaliation against his person. As well as the intentional interference of his personal and legal property to which Mr. Montalban has tried numerous times in writing to the U.S. Marshals, USP Canaan's staff, the Third Circuit Court and USP-1 Coleman's staff all to no avail. These intentional acts have purposefully stopped Mr. Montalban in filing his timely appeals with the Third Circuit Courts against his recent criminal conviction where staff planted, fabricated and with-held evidence that would prove Mr. Montalban in deed never possessed any weapon in his assault against Mr. Wisniewski.

This is a clear and obvious violation of my Due Process Clause rights, my First Amendment right to be free to speak and be able to have access to my family, as well as being able to contact the courts and attorneys for my legal needs, and my Fifth and Fourteenth Amendment rights to not be deprived of liberty and property, etc..

I request that FBOP staff no longer retaliate against me for using my Constitutional right to have un-impeded access to the courts and my legal materials and to no longer with-hold my personal or legal mail that is not considered contraband or considered in violation of FBOP Policy, and if it is impeded that I will have proper written notice given to me stating the reasons as to why and returned to either myself or the sender immediately upon denial so any errors can be corrected or fixed.

I also ask that I will not be transferred from the facility until I have exhausted all my court filings and have been ordered or denied any/or all Motions filed with the courts or Department of Justice and FBOP.

This grievance has been duplicated and sent to each Regional Office in the Southeast & Northeast Regions since I am unsure who may be the responsible party to my complaint since the majority of my issues are from USP Canaan in the Northeast Region and I am now residing in the Southeast Region at USP-1 Coleman. I request that each Administrative Remedy's Legal Counsel for each Region work together on some type of resolution or assign which office will be culpable for the response to my complaint and notify me of who and what Office I will be responding to and replying in the future.

Dated: 01-04-16

Respectfully submitted,

  
Mr. Jose Montalban

Register #: 11497-179

FCC; Coleman USP-1

P.O. Box 1033/Unit-B

Coleman, Florida 33521-1033

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: JANUARY 26, 2016

AG FROM: ADMINISTRATIVE REMEDY COORDINATOR  
NORTHEAST REGIONAL OFFICE

TO : JOSE MONTALBAN, 11497-179  
COLEMAN I USP UNT: A/B QTR: B01-125L  
P.O. BOX 1023  
COLEMAN, FL 33521

FOR THE REASONS LISTED BELOW, THIS REGIONAL APPEAL  
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY  
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 849264-R1 REGIONAL APPEAL  
DATE RECEIVED : JANUARY 15, 2016  
SUBJECT 1 : MEDICAL CARE - DELAY OR ACCESS TO  
SUBJECT 2 :  
INCIDENT RPT NO:

REJECT REASON 1: THE ISSUE YOU RAISED IS NOT SENSITIVE. HOWEVER,  
WE RETAINED YOUR REQUEST/APPEAL ACCORDING TO  
POLICY. YOU SHOULD FILE A REQUEST OR APPEAL AT  
THE APPROPRIATE LEVEL VIA REGULAR PROCEDURES.

REJECT REASON 2: YOU MUST FIRST FILE A BP-9 REQUEST THROUGH THE INSTITUTION  
FOR THE WARDEN'S REVIEW AND RESPONSE BEFORE FILING AN APPEAL  
AT THIS LEVEL.

REJECT REASON 3: SEE REMARKS.

REMARKS : YOUR APPEAL SHOULD BE FILED TO THE REGIONAL OFFICE  
WHERE YOU ARE CURRENTLY DESIGNATED. PLEASE RESUBMIT  
YOUR APPEAL TO THE SOUTHEAST REGIONAL OFFICE.

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: JANUARY 22, 2016

FROM: ADMINISTRATIVE REMEDY COORDINATOR  
NORTHEAST REGIONAL OFFICE *RB*

TO : JOSE MONTALBAN, 11497-179  
COLEMAN I USP UNT: A/B QTR: B01-125L  
P.O. BOX 1023  
COLEMAN, FL 33521

FOR THE REASONS LISTED BELOW, THIS REGIONAL APPEAL  
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY  
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 849264-R1 REGIONAL APPEAL  
DATE RECEIVED : JANUARY 15, 2016  
SUBJECT 1 : MEDICAL CARE - DELAY OR ACCESS TO  
SUBJECT 2 :  
INCIDENT RPT NO:

REJECT REASON 1: SEE REMARKS.

REMARKS : MUST FILE IN THE REGION YOU ARE HOUSED IN, AS YOU  
CLAIM A SENSITIVE ISSUE THE FORM WILL NOT BE RETURN



U.S. Department of Justice  
Federal Bureau of Prisons  
*Northeast Regional Office*

U.S. Custom House-7th Floor  
2nd & Chestnut Streets  
Philadelphia, PA. 19106

January 26, 2016

Jose Montalban, Reg. No. 11497-179  
USP Coleman I  
P.O.Box 1033  
Coleman, FL 33521

Re: Administrative Claim Received January 15, 2016  
Claim No. TRT-NER-2016-01879

Dear Mr. Montalban:

This will acknowledge receipt of your administrative claim for an alleged loss of personal property or personal injury suffered at USP Canaan.

Under the provisions of the applicable federal statutes, we have six months from the date of receipt to review, consider, and adjudicate your claim.

All correspondence regarding this claim should be addressed to Federal Bureau of Prisons, Northeast Regional Office, Room 701, U.S. Custom House, 2nd & Chestnut Street, Philadelphia, Pennsylvania 19106. If the circumstances surrounding this claim change in any fashion, you should contact this office immediately. Also, should your address change, you should contact this office in writing accordingly.

Sincerely,

A handwritten signature in dark ink, appearing to read "JSP" or similar, is written over the typed name.

Michael D. Tafelski  
Regional Counsel



U.S. Department of Justice

Central Office Administrative Remedy Appeal

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-DIR-9 and BP-DIR-10, including any attachments must be submitted with this appeal.

From: Montalban, Jose 11497-179 Unit-H FCC; Coleman USP-  
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A—REASON FOR APPEAL On January 4, 2016, I filed a "Sensitive BP-10" with both the North and Southeast Regional Offices. These grievances were pertaining to medical issues I endured during the severe physical beatings I received from USP Canaan's staff after an assault with staff I was involved in on December 28, 2012. I sustained numerous injuries that were NEVER treated and I had developed seizures that have created more injuries to my person (broken wrist bones [untreated] and a broken collar bone [treated]) after these beatings by staff that prior to I had never had. To date I had only received a rejection notice from the Northeast office (see attached) and nothing from the Southeast Office. As per Policy these replies and non replies are to be taken as being denied greivances and I am proceeding with my remedy and filing an appeal to your office. The relief I request is clearly outlined within the BP-10 I have attached to this BP-11 appeal and the complaint and accusations stated therein are to be applied and used within this grievance. I want the relief I am and have been requesting as well as any disciplinary actions taken against the staff members involved as per policy.

April 15, 2016

DATE

SIGNATURE OF REQUESTER

Part B—RESPONSE

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PS Form 3800, April 2015 PSN 7530-02-000-9017 See Reverse for Instructions

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: \_\_\_\_\_

Part C—RECEIPT

CASE NUMBER: \_\_\_\_\_

Return to: \_\_\_\_\_

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT: \_\_\_\_\_

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

BP-231(13)



U.S. Department of Justice

## Central Office Administrative Remedy Appeal

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-DIR-9 and BP-DIR-10, including any attachments must be submitted with this appeal.

From: Montalban, Jose 11497-179 Unit-H FCC; Coleman USP-1  
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

**Part A—REASON FOR APPEAL** On January 4, 2016, I filed a "Sensitive BP-10" with both the North and Southeast Regional Offices. These grievances were pertaining to my personal and legal property and staff's deliberate indifference and their acts of retaliation in attempting to request them. These acts are in reprisal to an assault I had with a FBOP staff member at USP Canaan, where I was found guilty of in the U.S. District court and I was also enhanced of these charges for utilizing a weapon that was NEVER used nor in my possession, but this was stated and used in my conviction in court. These statements and evidence was all fabricated against me and I am in the process of an appeal against this act of misconduct, but also the extreme physical abuse and pain I endured by USP Canaan's staff immediately after the incident had occurred on December 28, 2012, where I am still dealing with the abuse and reprisal from FBOP staff. I have not had any response to the Regional complaints as of the writing of this appeal and as per Policy my none response is to be a denial of said grievance. I am asking for the same relief as outlined within the BP-10 and an attached copy is attached hereto and I assert the complaint written within it and ask that your office follow through and answer the complaint raised therein and its relief and grant it on its merits.

April 15, 2016  
 DATE

[Signature] 4/15/16  
 SIGNATURE OF REQUESTER

**Part B—RESPONSE**

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PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: \_\_\_\_\_

**Part C—RECEIPT**

CASE NUMBER: \_\_\_\_\_

Return to: \_\_\_\_\_  
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: \_\_\_\_\_

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

BP-231(13)

Received  
Counselor Phillip P

COC 1330.13.G  
April 20, 2004  
Attachment A

# INFORMAL RESOLUTION FORM

NOTICE TO INMATE: Bureau of Prisons Program Statement 1330.13 requires that except as provided in 542.13(b) an inmate shall first present an issue of concern informally to staff and staff shall informally attempt to resolve the issue prior to submitting a BP-9. A separate form must be used for each issue.

INSTRUCTIONS: Counselors will complete and attach this form to each Request for Administrative Remedy Form (BP-9) submitted, if not informally resolved.

MONTALBAN JOSE #11497-179  
Inmate Name Register No.

H-Unit  
Qtrs./Unit

Inmate Signature

1. Specific complaint (one 8 1/2" x 11" continuation page may be attached):

"TWO WEEKS AGO MY COUNSELOR PHILLIP - H-UNIT, CALL ME FOR IG LEGAL MAIL I NEED TO SIGNED FOR ONE MANILA ENVELOPE. I TELL HIM THIS ENVELOPE IS OPEN ALREADY, NO NAMES IN THE FRONT OF THIS... ATTACHED

2. What efforts have been made by the inmate to resolve the complaint informally? To whom has the inmate spoken?

TO THE "ASSOCIATE WARDEN", TO THE UNIT MANAGER  
I SEND A MESSAGE FOR TRILINKS-COMPUTER AND LOG-OUT

3. What action does the inmate wish to be taken to correct the issue?

STOP IT!! TO CONFISCATED MY LEGAL-MAIL FROM ALL DIFFERENTS FEDERAL AGENCYS AND FEDERAL COURT OF OCALA, FL. AND PASS TO ME THE LEGAL MAIL IN CORRECT TIME!!!!

Correctional Counselor's Comments (including actual steps taken to resolve):

Correctional Counselor

Date

Staff Circle One:

Informally Resolved Not Informally Resolved

Unit Manager's Review

Unit Manager

Date

Distribution by Correctional Counselor:

1. If complaint is informally resolved, maintain original on file in the Unit.
2. If complaint is not informally resolved, attach original to BP-9 Form and forward to Administrative Remedy Clerk for processing.

Inf. Resolution  
Form Issued  
to Inmate

Inf. Resolution  
Form Returned to  
Counselor

BP-9 Issued  
to Inmate

BP-9 Returned  
to Counselor

BP-9 Delivered to  
Admin Remedy Clerk

Date:

Time:

Counselor:

FCC COLEMAN

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: MONTALBAN JOSE #11497-179 "H" FCC-COLEMAN-USP  
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST

I REQUEST TO YOU (WARDEN) ABOUT THE ADMINISTRATIVE REMEDY'S STATUS, (BP-10) SOUTHEAST REGIONAL (BP-10) NORTHEAST REGIONAL, PA. (BP-11) CENTRAL OFFICE REGIONAL. THE LAST TWO WEEKS MY COUNSELOR "PHILLIP" FROM "H" UNIT, CALL ME FOR LEGAL-MAIL AND I NEED TO SIGNED FOR THE MANILA ENVELOPE, I TELL MY COUNSELOR "PHILLIP", THE COME OPEN ALREADY AND NOT NAME IN THE FRONT OF THIS ENVELOPE, OR WHO SEND TO ME, OR FEDERAL AGENCY. "I REFUSED TO SIGNED) AND COUNSELOR "PHILLIP", CALL THE OFFICER OF THE UNIT-"H", HIM PROCEDE TO OPEN THE ENVELOPE AND SHOW ME LEGAL DOCUMENTS FROM DIFFERENT REGIONALS AND LETTERS FROM FEDERAL COURT OF OCALA, FL. JUNE-10-2016 SOMETHING IS WRONG HERE!! I TELL HIM

DATE

SIGNATURE OF REQUESTER

Part B- RESPONSE

THIS IS AT A COPY OF THE ANSWER FROM MY COUNSELOR PHILLIP-H-UNIT!! HIM PASS TO ME THE ANSWER OF MY BP-8 (JUNE-10-2016; PASS TO HIM, IN THE TIME 12:50 PM) AND YESTERDAY, JUNE-29-2016, I RECEIVED THIS ANSWER, BUT NOT THE (BP-9); AND THE UNIT MANAGER MR: HUITT; SIGNED TO... DATED: 6-10-2016 13:10 PM. THEY MADE AT MISTAKE, THEY ADMITED TO HAVE IT!! MY'S { BP-10, SOUTHEAST REGIONALS ATL. } I SEE IT "ORIGINAL" { BP-11, CENTRAL OFFICE REGIONALS } THE DATES OF RECEIVED!!! { BP-10, NORTHEAST REGIONAL PA. } THEY CONFISCATED MY'S "REPLAYS, REMEDY'S LEGAL MAIL FROM FEDERAL COURT OCALA, FL. AND REGULAR MAIL TO... MEXICAN CONSULATED TO!!!"

DATE

WARDEN OR REGIONAL DIRECTOR

If unsatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER:

Part C- RECEIPT

Return to: LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION  
 SUBJECT:

DATE

CASE NUMBER:

RECIPIENT'S SIGNATURE (STAFF MEMBER)



Printed on Recycled Paper

BP-229(13)  
 APRIL 1982

ATTACHED.

MANILA ENVELOPE, OR WHO SEND THIS ENVELOPE? OR MY NAME, REGISTER NUMBER? NOTHING...

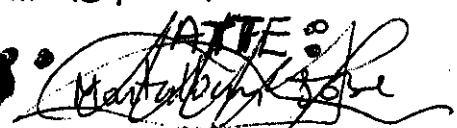
I REFUSED TO SIGNED FOR THIS MANILA ENVELOPE, MY COUNSELOR CALL THE OFFICER- NELSON FROM MY UNIT "H" AT HIM EXPLAINED TO BE HIS WITNESS ~~THAT~~ BECAUSE I REFUSED TO SIGNED FOR THIS MANILA ENVELOPE; AND MY COUNSELOR "PHILLIP"

CONTINUE TO OPEN THE ENVELOPE, AND REMOVE DIFFERENTS DOCUMENTS: FROM THE SOUTHEAST REGIONAL NORTHEAST REGIONAL, CENTRAL OFFICE REGIONAL, AND SOME LETTERS FROM: FEDERAL COURT OF OCALA, FL.

I ASK MY COUNSELOR PHILLIP- ABOUT WHO SEND THIS ENVELOPE NOW, AND NOT BEFORE IN TIME, FROM THE MAIL ROOM, OR FROM MY UNIT TEAM?

HIM STARTED THIS ENVELOPE COME FROM HERE COLEMAN, BUT HIM DON'T WANT IT SAY AT NAME??

⊗⊗⊗ THE SUPREM COURT, HAS MADE IT **CLEAR** THAT PRISON INMATES RETAIN ALL "FIRST AMENDMENT RIGHTS", NOT INCOMPATIBLE WITH THEIR STATUS AS PRISONERS OR WITH THE LEGITIMATE PENOLOGICAL OBJECTIVES OF THE CORRECTION SYSTEM... ⊗⊗⊗ THE LEGAL-MAIL, IS ENTITLED TO A HEIGHTENED LEVEL OF PROTECTION TO AVOID IMPINGING ON A PRISONERS LEGAL RIGHTS, THE ATTORNEY-CLIENT PRIVILEGE AND THE RIGHT TO ACCESS THE COURT'S... [CAVEY V. WILLIAMS] TO THE WARDEN.. VIOLATED THE PRISONER, "FIRST AMENDMENT RIGHTS", FOR COMUNICATING HIS OR HERS COMPLAINTS TO HIGHER ADMINISTRATIVE LEVEL IS A MUCH A DENIAL OF THE RIGHT... ⊗⊗⊗

ATTE:  




BP-S148.055 INMATE REQUEST TO STAFF CDFRM  
SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) <b>WARDEN</b>	DATE: <b>6/9/16</b>
FROM: <b>MONTALBAN JOSE</b>	REGISTER NO.: <b>#11497-179</b>
WORK ASSIGNMENT: <b>NOVE</b>	UNIT: <b>"H" - UNIT</b>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

I SEND THIS REQUEST TO YOU (MS: TAMYRA)  
WARDEN

IS ABOUT AT A REQUEST TO MY UNIT TEAM  
AND "ASSOCIATE WARDEN" ABOUT MY STATUS  
OF RESPONSE FROM: SOUTHEAST REGIONAL (BP-10)  
NORTHEAST REGIONAL, PA. (BP-10) TORT-CLAIM  
CENTRAL OFFICE REGIONAL (BP-11)

TWO WEEKS AGO MY COUNSELOR, TELL ME I GOT  
LEGAL MAIL, AND I NEED TO SIGNED FOR THE ENVELOPE  
AND I TELL HIM, THIS ENVELOPE IS OPEN ALREADY, NOT NAME  
IN FRONT THE ENVELOPE WHO SEND THIS ENVELOPE?

(Do not write below this line)

DISPOSITION:

See attached

Signature Staff Member

Date

6-16-16

**RESPONSE TO INMATE REQUEST TO STAFF MEMBER**

**NAME: Montalban, Jose**

**Register Number: 11497-179**

**Unit: H-Unit**

This is in response to your correspondence to Warden Jarvis. You indicate your Unit Counselor did not follow legal mail procedures when delivering you "legal mail" from the Northeast Regional Office (BP-10) and Tort-Claim from Central Office (BP-11). You indicate when presented with the mail the envelope had been previously opened without a name on the front of the envelope and you question who it was sent from.

A review of the issues raised in your correspondence has been conducted. The results of the review indicate Bureau of Prison forms (BP-10 and BP-11) do not constitute "legal mail" and therefore do not fall under the same requirements. Typically, those forms are sent in bulk mail from the respective offices and delivered to the institution, where they are sorted and delivered to the identified inmates. However, due to the sheer number of forms, your remedies were placed in a manila envelope by institution staff and forwarded to your Unit Team. When your Unit Counselor attempted to deliver the paperwork to you, you denied accepting any of it. As a result, unit staff documented their attempt to deliver the documentation and your denial for future reference, if needed. Therefore, your Unit Team staff is not acting in malice, but following policy guidelines.

I trust this addresses your concerns.



G. Miller, Associate Warden

6-16-16

Date



Via Certified and Return Receipt Mail

U.S. Custom House-7th Floor  
2nd & Chestnut Streets  
Philadelphia, PA 19106

July 12, 2016

Jose Montalban, Reg. No. 11497-179  
USP Coleman I  
P.O. Box 1033  
Coleman, FL 33521

RE: Administrative Claim No. TRT-NER-2016-01879

Dear Mr. Montalban:

Your Administrative Claim No. TRT-NER-2016-01879, properly received on January 9, 2016, has been considered for settlement as provided by the Federal Tort Claims Act (FTCA), 28 U.S.C. § 2672, under authority delegated to me by 28 C.F.R. § 543.30. Damages are sought in the amount of \$6,153,000.00 based on a personal injury claim. Specifically, you allege you were assaulted by a Bureau of Prisons (BOP) staff member at USP Canaan on December, 28, 2012 and over the past 3 years have continued to suffer physical injuries resulting from the alleged assault.

An investigation shows on December 28, 2012, you assaulted a staff member at USP Canaan and were assessed for injury and treated by Health Services at USP Canaan. X-rays taken during your assessment revealed no mandibular fracture. Further evaluation by an Ear, Nose, and Throat Specialist on January 18, 2013 noted a potential orbital fracture, but no treatment was indicated. There is no evidence you complained of or experienced daily seizures. There is no evidence to suggest you suffered a compensable loss as the result of negligence on the part of any Bureau of Prisons employee. Accordingly, your claim is denied.

If you are dissatisfied with this decision, you may bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this letter.

Sincerely,

  
Michael D. Tarelski  
Regional Counsel

cc: Acting Warden, USP Canaan

U.S. Department of Justice  
Federal Bureau of Prisons  
Northeast Regional Office

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OM.

⇌11497-179⇌

Jose Montalban  
11497179 Federal correctional complex  
P.O.Box 1033\H-Unit  
Coleman, FL 33521  
United States

TO:

⇌11497-179⇌

William J Nealon  
P.O.Box 1148  
235 N Washington AVE  
Federal bldg & U.S. Courthouse  
Scranton, PA 18501  
United States:

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